

# Food Safety at Stake – the Establishment of Food Agencies

LISE HELLEBØ

STEIN ROKKAN CENTRE FOR SOCIAL STUDIES

UNIFOB AS

NOVEMBER 2004

**Working Paper 14 - 2004**

# Contents

PREFACE .....	3
SUMMARY .....	4
SAMMENDRAG .....	5
FOOD SAFETY AT STAKE – THE ESTABLISHMENT OF FOOD AGENCIES .....	7
INSTITUTIONS, REGULATION, CRISIS, AND CHANGE .....	8
IDENTIFYING AGENCIES .....	10
THE BSE CRISIS .....	13
THE FOOD STANDARDS AGENCY .....	18
THE EUROPEAN FOOD SAFETY AUTHORITY .....	20
DISCUSSION .....	24
References .....	27

# Preface

This paper «Food Safety at Stake – the Establishment of Food Agencies», is written as part of a broader research project comparing food control systems and regulation of risk in food. Studies of regulation and food control have for many years been a field of research at The Rokkan Centre and the former Centre for Social Science Research (SEFOS) at the University of Bergen. This research includes works about the history and institutionalization of food control in Norway, as well as studies of the current practise within the control systems. From 1999 a comparative research project was included. The comparative project focuses on food control in four European countries, England, Sweden, Germany and The Netherlands, and the relations between the national food control and the European food control regulations. This paper – concentrating on the agencies, FSA in Britain and EFSA at European level, is written by researcher Lise Hellebø. This paper will be developed to be included in her thesis for the doctoral degree in political science.

*Kari Tove Elvbakken*  
Director

# Summary

Food safety regulation has a long history in public policy. It is an essential and valued state responsibility, vital in securing society order. The 1990s BSE-crisis had important political, institutional and economic consequences, and can explain recent institutional and political changes in the food policy field. New regulation, new organisation and new food agencies were established – existing ones were reorganized. Here, the establishment of the Food Standards Agency in Great Britain and the European Food Safety Authority in the EU is compared. Central policy documents are analysed in order to assess characteristics of the agencies and British and EU food safety policy. Central motivations include independence, scientific excellence and transparency. The desire to restore consumer confidence in food regulation and in regulating institutions is significant. Furthering European integration was an essential additional goal within the EU. The documents reveal a sincere interest in changing institutions, policy and regulation. At the same time, existing institutional arrangements and traditions continue to influence the field.

# Sammendrag

Offentlig regulering av mat har en lang historie. Det er en viktig og verdifull oppgave for staten, og en av statens sentrale ordensoppgaver. Notatet viser hvordan BSE-skandalen på 1990-tallet fikk viktige politiske, institusjonelle og økonomiske konsekvenser, og argumenterer for at dette kan forklare institusjonelle og politiske endringer i matpolitikken. Ny lovgivning, ny organisering av forvaltningen og nye matvaremyndigheter ble etablert i kjølvannet av skandalen. Samtidig ble eksisterende myndigheter omorganisert. Her sammenliknes etableringen av Food Standards Agency i Storbritannia og European Food Safety Authority i EU. Sentrale policy-dokumenter er analysert med sikte på å finne viktige kjennetegn ved etableringen av de to nyoprettede myndighetene og ved matpolitikken generelt. Analysen viser at tre målsettinger var særlig viktige: Uavhengighet, vitenskapelig ekspertise og åpenhet i forvaltningen. Målet om å gjenopprette forbrukertillit til både bestemmelsene og til regulerende institusjoner er også sentralt. I tillegg var det et viktig mål i EU-sammenheng å bidra til den europeiske integrasjonen. Dokumentene som er analysert vitner om et oppriktig ønske om å endre institusjoner, politikk og regulering. Samtidig fortsetter eksisterende institusjonelle ordninger og tradisjoner å forme feltet.



# Food Safety at Stake – the Establishment of Food Agencies

An increase in public awareness concerning food safety has been associated with recent series of food scares across Europe. It is said that consumer confidence in food controlling institutions has been seriously weakened. Correspondingly, widespread changes have been made in the ways food control is organised, and new agencies have been created. The consumer health magazine *Consumer Voice*<sup>1</sup> characterises this as «...an outbreak of new agencies», adding that «The official control agencies have regrouped in the battle to regain public confidence. Food inspectors and food scientists have been re-examining and re-defining their roles» (Consumer Voice 2000:28).

This article compares and examines the establishment of two new food agencies: *The Food Standards Agency* – FSA – in Great Britain and *The European Food Safety Authority* – EFSA – in the European Union (EU). Both were established after a serious food scandal had ridden Europe: the mad cow disease, or the BSE crisis.<sup>2</sup> Central to the analysis is a comparison of the two agencies, the processes leading to their establishment and the motivations and aims governing them.

The two agencies are placed at different analytical and administrative levels. The FSA operates primarily nationally, whereas EFSA operates at the European level. This might create methodological problems. The agencies are faced with different tasks and different problems because they are placed at different levels. At the same time they operate within the same policy field, and therefore have many similarities both of structure and mission. The fact that they both were created in the immediate wake of the BSE crisis makes them particularly interesting in a comparative perspective. An important aim is to give some characteristics of food policy at the beginning of our century. A focus on two governing levels is therefore an advantage whereas it gives a broader perspective.

In the following, I will introduce a historical and institutional approach, and address the importance of crisis as a catalyst for change. Then, I introduce and discuss a selection of works that can be seen as representative for academic literature on public agencies. We look at how public agencies are understood and analysed, nationally and within the EU framework. This establishes a theoretical foundation illuminating the following empirical sections. The next part of the article gives a brief account of the BSE crisis, illuminating events both in Great Britain and in the EU. Further, an empirical account of the establishment of the two agencies is presented. Here, central policy documents are systematically analysed in a discussion of the most significant motivations governing the agencies. Finally, a brief discussion sums up the main

---

<sup>1</sup> Consumer Voice is published by the European Commission, General Directorate of Health and Consumer Protection.

<sup>2</sup> BSE: Bovine Spongiform Encephalopathy. A disease of cattle which it is believed can be transmitted to humans and cause a new variant of the brain disease Creutzfeldt-Jacob Disease (nvCJD).

findings. The assessments are based on qualitative analysis of relevant policy documents listed in Table 1 following. Four interviews with five informants in the FSA, the Department of Health (DoH), the Ministry of Agriculture, Fisheries and Food (MAFF) and the EU Commission, carried out in 1999 and 2000, have further informed the analysis.<sup>3</sup>

## Institutions, regulation, crisis, and change

Four concepts are crucial in the following account: institutions, regulation, crisis and change. Food safety regulation and food control is understood in institutional terms. It is seen as an institutionalized policy field, involving certain characteristics, based in distinctive institutions, comprising traditions and values formed over time. The role of sudden crisis in stimulating the formation of new institutional arrangements is central. The characteristics of the regulation subject – food safety – surfaces as an important factor explaining similarities in the two agencies. At the same time, existing institutional arrangements, nationally and at the EU level, can explain differences. A crisis can alter policy and change fundamental institutional and regulative arrangements. Here, it will be argued that BSE played a crucial part in the changes of the British and EU food control and the subsequent setting up of food agencies.

The relevance of understanding food control as a particular form of regulation with a specific history and its own institutions has been argued in a work on food control in Norway (Elvbakken 1997). Elvbakken shows that regulation of food and food control is an important undertaking of the state, a task that is of essential value for society. To secure safe food and adequate food supplies is also to secure order. Consequently, a crisis that challenges food safety arrangements challenges the state and society order. Food safety involves public health and safety issues, but also includes market and business interests. It involves both political and economic issues. It may also involve ethical concerns and question production methods. Securing safe food is an essential task for any state, regardless of state form and political system. A food safety crisis may therefore challenge the state itself, and further question arrangements in several different policy areas.

Elvbakken argues the usefulness of Selznick's definition of regulation (Elvbakken 1997:8). He describes regulation as «...*sustained and focused control exercised by a public agency over activities that are socially valued*» (Selznick 1985:363–364). Majone discusses regulation in Europe and also refers to the value of Selznick's definition (Majone 1996a:9). This understanding of regulation brings the regulating institution or agency into focus, and emphasises the significance of embedded social values. It also emphasises food safety as an essential and valued task taken care of by the state. Selznick's approach to regulation

---

<sup>3</sup> Data has been collected in a research project funded by the Norwegian Research Council («*Offentlig håndtering av risiko ved mat – en sammenliknende studie av bruk av virkemidler*»). The study compares food control and food policy in Germany, Sweden, the Netherlands, and the United Kingdom.

has been used both at a national level (Elvbakken's study) and a European level (Majone's work), and is therefore considered relevant here.

From an institutional approach (Peters 1999, Powell and DiMaggio 1991, Scott 1995), food regulation and food control can be seen as reflecting certain norms, values and objectives, which are embodied in certain institutions formed over time and in different contexts. Different food agencies can be expected to show important similarities and to face similar challenges. At the same time, they are likely to be influenced by national and specific institutional contexts. Elvbakken emphasises the importance of history in understanding food control, whereas food control is a policy field that has been institutionalized over time and with particular characteristics (Elvbakken 1997). A *historical institutional* outlook emphasises the importance of historical context in trying to understand important institutions (Thelen 1999, Thelen and Steinmo 1992). This is relevant when trying to understand institutions that deal with food control.

Historical institutionalists use a definition of institutions that includes both formal and informal rules and procedures that influence and shape politics and political history as well as behaviour. These range from specific characteristics of government institutions to the more overarching structures of the state and the nations normative social order (Thelen and Steinmo 1992:2). Institutionalists are frequently criticised for an alleged concentration on continuity and stability rather than on patterns and mechanisms of change (Peters 1999). However, many institutionalists recognize this, and are very much engaged in theorizing about institutional development and change. Thelen and Steinmo (1992) and Thelen (1999) encourage a search for more theorizing on institutional formation and change. A suggested way forward is to employ more comparative studies. They draw attention to what they call 'institutional dynamism'; where changes in context produce situations where old institutions change and new institutions might arise. Crisis (political, institutional and/or economical) can be an important explanatory for institutional and political change. The BSE crisis represents an event that can be seen to have spurred 'institutional dynamism' in the field of food policy. By comparing the processes in the creation of the FSA in Great Britain and EFSA in the EU, this argument will be further explained.

A conception of crisis as catalyst for change is common to institutional theories (Fligstein and Mara-Drita 1996). Krasner (1984:234) conceptualizes institutional change as «...episodic and dramatic rather than continuous and incremental» – as 'punctuated equilibrium'. This implies that the development of institutions is characterized by rapid change during periods of crisis, followed by long periods of consolidation and stasis. According to Krasner, the natural order is for institutions to perpetuate themselves (path dependency). Crisis is a result of changes in society, of incongruence between the state and its environment. External or internal pressures lead to instances of 'punctuated equilibrium' in the relation between the state and the society.<sup>4</sup> Path dependency suggests

---

<sup>4</sup> March and Olsen (1989:167–168) have challenged this view of state-society relations: Viewing institutions as an equilibrium solution to conflicting interests does not take in the totality of what institutions are. Institutions embed historical experience, rules and routines that are something more than a reflection of the current political and social forces in a society. This approach agrees with the work of Selznick and with the historical institutional approach.

that organizations will go on behaving the same way as before where the costs of exit rise over time (Pierson 2000). Therefore, it is difficult to introduce new arrangements. Path dependency does not rule out institutional change, but argues that change tends to be incremental and mediocre rather than sudden and radical. Nevertheless, if a crisis is extensive enough, involving profound challenges to the existing order, institutional changes can be more far-reaching than the minor adjustments a 'normal' path dependent situation would suggest. Fligstein and Mara-Drita (1996) elaborate on the role of crisis in institution-building. They argue that institution-building moments occur when a social, economic or political crisis undermines the current institutional arrangements. In a crisis, institutional entrepreneurs can seize the moment and try to forge new agreements. Boin and t'Hart (2003) similarly explore the notion that crises provide key opportunities for institutional reform, but argue that opportunities for reform in the wake of a crisis are smaller than often thought. The case of BSE, however, is seen as a crisis of such scope that it did entail a significant bureaucratic reform craft (Boin and t'Hart 2003:549). Taking heed of crisis as a formative craft opens up for a view of institutions as both enabling and constraining development (see for instance Pierson 2000).

In order to fully understand the mechanisms of change and the events following a crisis, it is important to look into the policy field in question. In order to understand the events, it is necessary to understand the characteristics of the field as well, including institutions, their history and inherent values. In agreement with the work of Selznick, Stinchcombe (1997) points to the importance of values in institutions. The embodiment of important values represents the legitimizing capacity for the institution in question. People accept and support existing institutions because they in some way embody a value that people embrace. The institution's ability to realize such values determines its 'life' and how well it does. If the legitimacy of an institution is at stake, the institution itself is challenged. Subsequently, a legitimacy crisis that challenges the inherent value(s) of an institution in particular holds potential for institutional change. Herein lies the explosive force of the BSE crisis.

## Identifying agencies

The term 'agency', although commonly used in relation to national food administrations, is somewhat ambiguous. Some food agencies are mainly enforcement and inspection bodies, others primarily provide advice to other governing institutions and/or perform scientific research and risk assessment. Different food agencies have different relations to central government, and sanctioning and regulative powers vary. The agency label therefore does not signify identical organisations, though they are likely to possess important similarities because they operate in the same policy field.

The BSE crisis led to criticism based among other things on alleged confusion of politics and science, of vested interests and public health concerns. With the establishment of EFSA, scientific risk assessment was delegated to the agency, while more strategic policy decisions remained with the Commission. In the British case, the FSA deals mainly with management and advice to central government while legislation

and more fundamental policy issues are dealt with by the Department of Health (DoH). This separation of administrative tasks and policy decisions can be seen as an important motivation behind the creation of new food agencies.

Rhodes (1996) introduced the term *agencification* in studying the establishment of independent agencies in British administration in the seventies (the so-called *Next Steps* agencies). Since then, there has been a development of what may be characterised as agency literature in public administration. On the whole, the agency literature seeks to answer general questions about agencies, and many look for common features and focus on how to obtain optimal management (Pollitt 2003, Pollitt and Talbot 2004). Agencies are often seen as a distinctive type of public or state organisation, although most authors agree that they are difficult to define and categorize. Pollitt and Talbot (2004) bring on five criteria which are useful in the definition of agencies. First, the agency should be at arm's length from the main departments of state, it should be carrying out public tasks at a national level, be staffed by public servants, financed by the state budget and subject to public/administrative law procedures (Talbot 2004:5).

The establishment of agencies is commonly explained as motivated by the classic doctrine in public administration of separating policy from administration and management. Majone (1996a, 1996b, 1997, 2000) emphasises that by separating policy from administration through the establishment of agencies, the day-to-day administration and implementation of policy becomes more stable and predictable. As a result, regulation should become more credible. According to Rhodes (1996:7), the key notion behind agencification in Great Britain was that *distance* from central departments gave freedom to manage. With the establishment of agencies, responsibility for management is generally delegated to the agency while accountability for policy remains with the respective minister (Rhodes 1996:12).<sup>5</sup> We shall see in the following account that establishing agencies as separate bodies in order to restore legitimacy and public confidence after the BSE crisis was an important motivating factor.

EU agencies differ from national agencies but may also have similarities according to area of regulation. The agency term is seen as ambiguous at the EU level as well, and has been used for several bodies (Kreher 1997:227). At the same time, EU agencies in general share some similar characteristics. They are described in a Commission paper (EU 2000) and defined as: «...a public authority set up under European law, separate from the Community institutions (Council, Parliament, the Commission, Central Bank, etc.), and enjoying legal personality» (ibid. 4).<sup>6</sup>

EU agencies are continually seen in relation to the development of the European Union and European integration. In a special issue of the Journal of European Public Policy (1997), Dehousse, Kreher, Majone and Shapiro discuss the establishment and functioning of agencies within the EU. They see the development of agencies in the EU as a response to conflicting pressures following the creation of the internal market – and in particular as a response to shortcomings in the existing regulatory approach of the

---

<sup>5</sup> In the case of EU agencies, policy accountability as a rule remains with the responsible EU commissioner(s) (EU 2000).

<sup>6</sup> The EU website lists 13 different agencies, among them EFSA. [www.europa.eu.int/agencies/index\\_en.htm](http://www.europa.eu.int/agencies/index_en.htm)

European Commission (Dehousse 1997:246–247). They point out that EU agencies lack the independence and powers of other regulatory bodies, and are relatively ‘weaker’ than agencies in the US (Majone 1997:262, Shapiro 1997:276–282). This is also due to provisions of the Treaty of Rome – in particular Article 4 which enumerates the institutions of the EU. This article restricts the opportunity of freely establishing other regulatory bodies. Nevertheless, the four authors are generally optimistic regarding the potential and influence of European agencies. The establishment of (more) EU agencies is seen as an important step towards further European integration.

Vos (2000b) considers the establishment of more (EU) agencies as advantageous, primarily because agencies facilitate the use of scientific and/or technical experts who are not part of the existing bureaucratic structure, and secondly because they reduce the administrative workload on central institutions, allowing the latter to concentrate on strategic policy-making. This line of argument is relevant at a national level as well. However, Vos warns that extreme ‘agencification’ could lead to more fragmentation, and erode accountability (Vos 2000b:1120).

Majone argues that administrative or technocratic networks within EU agencies serve as important ‘bearers of reputation’ (Majone 1997:271). The establishment of networks facilitates the development of practices, which should create shared expectations. The establishment of an agency in a certain policy field (such as food safety) might help create a genuinely *European* policy in that particular field, and can result in further identification with the values and priorities of European policy. These aspects are relevant in the understanding of the establishment of EFSA. However, the existence of European or worldwide expert networks in the field of food safety is not new. One such network is the Codex Alimentarius Commission.<sup>7</sup> Food experts have also long been united by the existing committee system of the EU. Another established network is FLEP, a forum uniting European food law enforcement practitioners.

Pollitt (2003) and Pollitt and Talbot (2004) point out that a universal legal classification of agencies is difficult because national systems differ. At the same time functional classifications are hard to standardize because ‘framing’ constitutions and political systems vary. However, I would argue that agencies operating in the same policy field – such as food control – can be expected to enjoy certain similarities across countries and institutional boundaries because of their similar foundations and tasks. They also share historical similarities, related to the development of food law, advances in scientific knowledge, and the development of techniques for food control and safety regulation. For instance, similar national legislation on meat control was established in many European countries at the end of the 19<sup>th</sup> century.

Understanding the subject that is regulated – in our case food safety – is important in order to understand how the field is regulated. This is also important in relation to the interpretation of how different agencies operate and are managed. Following Selznick and Stinchcombe, understanding the subject of regulation, the tasks valued and upheld by the institution is important in order to assess the potential impact of a crisis –

---

<sup>7</sup> The Codex works for the formulation and harmonisation of food standards across the world and has its roots in the establishment of the Food and Agriculture Organisation of the United Nations.

especially a crisis of legitimacy, attacking the foundational values the institution embodies. By placing public tasks outside the authority of central government (or, in the case of the EU: the Commission), it becomes possible to hold the respective agency accountable for new food scandals. The creation of separate institutions can therefore illustrate a wish for stability and credibility with regard to decision-making. The alternative is decision-making by politicians, who might have more temporary agendas.

The idea of separating administration, scientific risk assessment and policy issues, is not unproblematic. Both Rhodes (1996:12) and Vos (2000a:248) argue that administration itself can embody policy considerations. The wish to separate policy and administration seems an important motivation behind the establishment of agencies. However, agencies still make decisions that have important policy implications. The separation of policy-making and management is therefore not an easy task. This indeed applies to the field of food safety, where consumer interests, agricultural and business interests, ethical judgements and scientific considerations often are at odds.

Joerges et al. (1997) provides insights concerning regulation and decision-making in the EU that has important implications for EU food regulation (see also Joerges and Neyer 1997, Joerges and Everson 2000). Their insights are relevant at a national level as well. They criticize the idea that regulatory policy can be seen as a technocratic concern that can be delegated to experts in independent agencies. A central argument is that judgments on the acceptability of risk must take into consideration, not just expert assessment, but also normative, political and ethical factors. This militates *against* the delegation of this function to bodies of experts (Joerges and Everson 2000:171). It forms a direct contrast both to the arguments of the British approach in the Next Steps programme, and to those of the EU approach, where the separation of policy and administration is emphasised. In agreement with this, Vos pointedly remarks that «...*risk assessment and management are so complex, uncertain, and controversial that they cannot be conducted without reference to normative social values*» (Vos 2000a:230). This further applies to risk assessment in food safety, where scientific uncertainty or controversy repeatedly complicates risk management.

Despite the many valuable insights in existing agency literature, there is room for more research. In general, there are few explicit empirical studies. There is also a lack of comparative work. Most authors are taken up with a more fundamental debate about what the establishment of agencies means to public administration and management, democratic accountability, European integration or Community law. They do not regard characteristics of the particular field of regulation in question. In the following, I shall examine in detail the establishment of the FSA and EFSA, in an attempt to complement existing work.

## The BSE Crisis

It seems that the BSE crisis is important in explaining the establishment of the two food agencies. Food safety regulation concerns crucial state assignments and arrangements, and food safety crises therefore are of particular importance. Judging from newspaper and media coverage, other food scares such as dioxin in Belgian poultry (in 1999) and

food poisoning through salmonella, listeria and E. coli also had an impact on the overall confidence crisis in food control in the 1990s. The evolvement of the BSE crisis can be seen as a parallel case to that of salmonella in eggs documented by Smith (1991), where food policy issues and arrangements became politicized after a long period of depolitization. However, frequent references to the BSE case in relevant public documents, in newspaper reports and other relevant literature (for instance Grant 1997, Joerges and Everson 2000, Majone 2000, Vos 2000a and Vos 2000b) demonstrates that the BSE crisis was particularly important, both in intensity and in terms of dispersion. It concerned not only questions regarding public health and safety, but also involved trade and commercial issues. Furthermore, agriculture and production methods became major concerns. It also challenged progress in the EU. Bovens et al. (1998) emphasize the severity of the crisis by characterizing BSE as a political and a programme failure.<sup>8</sup> Boin and t'Hart (2003) sees it as a crisis of significant scope and importance, with a significant reform craft. Millstone and van Zwanenberg (2002) characterizes it as the most challenging of a series of food scares since the early 1980s, and as a defining watershed in reforming food policy in the UK, the EU as well as on a global level.

BSE became a significant crisis not just because of the frightening nature of the disease itself, and the fact that it could spread to humans. It became a crisis of significant proportion because of the way it was handled by governing institutions. BSE was first discovered in Great Britain in 1986. Through the 1980s and 1990s the disease developed into an epidemic, spreading to more and more herds and farms.<sup>9</sup> The rapid spread of the disease was linked to the practice of using rendered cattle in feed. Up until 1996, the British government denied a possible link between BSE and the similar human brain disease nvCJD. This can be related to an interest in reassuring concerned domestic consumers, as well as foreign trading partners. In March 1996, the authorities changed their position, now acknowledging that there was a possible link between the diseases after all. This prompted massive media attention, both nationally and in Europe, and led to serious criticism of the government and of food control mechanisms.<sup>10</sup> In the years that followed, several reports, papers and legal texts on the organisation and principles of food safety and regulation were published. A public Inquiry was set up in 1998 to review the British governmental actions in response to the BSE prior to 1996 (BSE Inquiry Report 2000). The «lessons to be learned» were apparently plentiful (ibid: chapter 14, vol. 1). From the publication of the first report on the FSA (James 1997) it was only two years before the agency was operative. Similarly, only two years separate

---

<sup>8</sup> This occurs when a strategy or policy fails to have the desired impact and produces unwanted effects (programme failure), and when it lacks political support and momentum necessary for its survival (political failure) (Bovens et al 1998:196).

<sup>9</sup> By the time that BSE was identified as a disease as many as 50,000 cattle are likely to have been infected (BSE Inquiry 2000, vol. 1, chapter 1).

<sup>10</sup> Evidence on this can be found in several special reports on the mad cow crisis, for example: BBC News: «BSE and CJD Crisis Chronology» ([www.news.bbc.co.uk/hi/english/static/in\\_depth/health/2000/bse/default.stm](http://www.news.bbc.co.uk/hi/english/static/in_depth/health/2000/bse/default.stm)) The Guardian: «Special report BSE Crisis» ([www.guardian.co.uk/bse/0,8250,388290,00.html](http://www.guardian.co.uk/bse/0,8250,388290,00.html)) and CNN: «Mad Cow In-depth Special» (<http://www.cnn.com/SPECIALS/2000/madcow/>)

the first formal proposal for the establishment of the European agency (COM (99) 719) and its establishment in 2002.

Wyn Grant refers to the BSE crisis in Britain as «...a clear example of a policy disaster», partly caused by tensions between the Department of Health (DoH) and the Ministry of Agriculture, Fisheries and Food (MAFF) (Grant 1997:346). It also had implications for British EU relations, and for co-operation within the community. This is made clear in the British BSE Inquiry report (2000) and in the corresponding BSE Inquiry conducted by the EU (EP 1997). Vos (2000a:227) agrees that the spread of the disease into Europe resulted in widespread public distrust in how the Commission functioned. This in turn prompted drastic reform (ibid. 228). Majone argues that the BSE crisis not only revealed a failure to establish a credible community of scientific experts on food safety, but also exposed serious shortcomings in the overall co-ordination of European policies on agriculture, the internal market and human health (Majone 2000:282). Baggott (1998) has pointed out that an important factor was that BSE was initially defined as a problem of agriculture rather than as one of health. This defined the problem in a certain way and structured the solutions sought. The problem was gradually defined more as a question of public health and safety. And as the health departments in different countries and in the EU became more involved, the nature of solutions shifted.

Evidently, BSE had important implications for policymaking both at national and EU level. In the EU, the crisis had a double impact. It hit the very foundations of the European community – that of trade between member states. Furthermore, it surfaced just when the EU was holding a summit conference to revise the Maastricht Treaty – the agreement that had formally established the Internal Market. In response to the recognition of the risks relating to the spread of the disease, the EU issued a ban on the export of British beef. The British government argued they had taken the necessary steps to stop the spread of BSE, and reacted by obstructing decision-making on all matters requiring unanimity at the EU summit. According to reports in the periodical *European Dialogue*<sup>11</sup>, this seriously hampered progress at the summit, thereby stimulating a debate on the principle of unanimous voting within the community (European Dialogue 1996:5). This illustrates that food safety is of such value and importance to society that a crisis can have wider institutional implications and prompt policy and institutional changes, even beyond the policy field in question.

Several parallel documents were published in Great Britain and in the EU in response to the BSE crisis. The most significant ones form the basis of the following analysis. Table 1 «Milestones in the emergence of FSA and EFSA» summarises the events and the documents explored, and illustrates how interrelated the changes in Great Britain and the EU have been.

The following analysis emphasises the main events and actors in the process of establishing the agencies. The main aim is to look into what motivations guided the establishment of the agencies, and what solutions were sought in order to restore confidence in policy and regulation. This will be followed by a discussion of how the

---

<sup>11</sup> European Dialogue is a magazine published by the EU Commission, Directorate General for Information.

establishment of the two agencies can be accounted for in terms of the argued institutional approach and the agency literature reviewed above.

*Table 1. Milestones in the emergence of FSA and EFSA.*

	Food Standards Agency / Great Britain	European Food Safety Authority / EU
<b>1986</b>	The mad cow disease in cattle (BSE) discovered	
<b>1996</b>	The link between BSE and nvCJD discovered	EU ban on British beef
<b>1997</b>	The James Report on the Food Standards Agency (James 1997)  The BSE Inquiry launched in December	Report on the alleged contraventions or maladministration in the implementation of Community law in relation to BSE (A4-0020/97)  Speech to European Parliament by Jaques Santer (Speech/97/39)  Communication on Consumer Health and Food Safety (COM (97) 183)  Commission Green Paper on Food Law (COM (97) 176)
<b>1998</b>	Government White Paper: «The Food Standards Agency – a Force for Change»	Communication on Veterinary and Plant Health Control and Inspection (COM (98) 32)
<b>1999</b>	Food Standards Bill  Food Standards Act 1999	The James, Kemper and Pascal Report: «A European Food and Public Health Authority. The future of scientific advice in the EU» (James et. al. 1999)
<b>2000</b>	The Food Standards Agency established in April  The BSE Inquiry publishes its report	Commission White Paper on Food Safety (COM (99) 719)  COM (00) 716: Proposal for a Regulation laying down the general principles and requirements of food law, establishing the European Food Authority, and laying down procedures in matters of food
<b>2001</b>		Amended regulation on the European Food Authority (COM (01) 475)
<b>2002</b>		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

## The Food Standards Agency

Shortly after the BSE crisis set off, the Labour leader Tony Blair ordered a report on the establishment of a British food agency. Professor Phillip James of the Rowett Research Institute in Aberdeen was appointed to lead the work. He had been a prominent figure in British food policy for some time, having advised governments on several issues concerning food safety since the early 1980s (Cannon 1987:18, 35–36). The ‘James report’ on the Food Standards Agency was published in 1997, after a broad round of consultation with public and private interests (James 1997). According to the report, British food policy was faced with a serious loss of confidence, due to a culture of administrative secrecy, conflicts between public and vested interests, and a lack of coordination in existing food control mechanisms (*ibid.* 5). The proposed solution was to establish an independent agency with executive powers and consumer and other public interest involvement (*ibid.* 16–18).

Despite the emphasis on independence, the agency would not be entirely separate from central authorities. It was to report to parliament through health ministers (*ibid.* 27). Responsibility for food safety at the central level was formerly divided between MAFF and the DoH. MAFF largely took care of food standards (quality and composition), chemical safety, labelling, and food technology, including additives, contaminants and the hygiene aspects of dairy and meat production. The DoH had responsibility for health aspects of food, including food hygiene, microbiological food safety and nutrition (James 1997:11–13). Conflict between agriculture and health departments was evident. With the reorganisation proposed in the James report, food policy and food regulation would be firmly established as a public health concern, separated from agriculture departments and central government. ‘Independence’ from agricultural and business interests and from central government was seen as the key to restoring public confidence. A principle of viewing food control as a specific public health concern has a long history (Elvbakken 1997). With the restructuring for the British food policy field this principle was accordingly re-emphasised.

The proposed agency was to advise ministers on food safety and regulation and to coordinate research in food safety, nutrition and consumer protection (*ibid.* 24). The advantage of including nutrition policy within the agency’s remit was emphasized (*ibid.* 10). The report also stressed the importance of taking notice of consumer interests (*ibid.* 10). It envisaged an organisation governed by a multi-member board, where most members would be nominated by public interest groups (*ibid.* 16).

After victory in the general election in 1997, Labour treated the establishment of the Food Standards Agency as an important priority. A government White Paper was published in January 1998. It supported the main conclusions of the James report (White Paper 1998: 2). Consumer confidence, independence and the responsibility of the DoH continued to be central idioms. The two documents nevertheless diverged on some points. The James report had envisaged strong agency involvement in nutrition policy. This was toned down in the White Paper. Instead, a split of responsibilities between the agency and DoH was suggested (*ibid.* 32–33). The aspect of significant consumer involvement was also downplayed, although the importance of the board

members' independence was still emphasised. The White Paper further emphasised an 'integrated approach' to questions of risk management and risk assessment. Scientific risk assessment and risk management were seen as two inseparable questions, whereas the agency would formulate policy, have regulatory tasks and integrate scientific expertise (ibid. 2). After a widely publicised hearing, a bill establishing the Food Standards Agency was laid before Parliament and publicly distributed. Despite disputes concerning funding and the agency's involvement in nutritional issues, the Food Standards Act was passed in November 1999 without significant differences from the proposals in the bill.

The FSA was established in April 2000. It was ultimately designed with powers in its own right; not only would it deal with matters of risk assessment, it would also possess regulatory powers. The latter allows it to issue general codes of practice and audit local public health authorities responsible for food control. It was also made responsible for the Meat Hygiene Services performing meat control. Furthermore, it was to provide information to the public and advise central authorities. Still, important regulatory powers remained with the Ministry (DoH). The responsibilities of MAFF were on the other hand minimized.

The 'Guiding Principles' of the Food Standards Agency demonstrate central motivations behind the establishment of the FSA (White Paper 1998:5). According to the White Paper, the essential aim of the Agency is «...*the protection of public health in relation to foods*» (ibid.). This principle involves a dual motivation: to secure adequate protection for the consumer and to support honest producers and retailers in the market, thereby providing protection for the market itself. This dual motivation characterizes food control in general, and is identified and discussed by Elvbakken in her work on Norwegian food control (Elvbakken 1997).

Three further objectives are central to the foundations of the agency. These include *independence, scientific excellence and transparency*. They imply that risk assessment will be «...*unbiased and based on the best available scientific advice*» (White Paper 1998:5). The agency will further act «...*at arm's length from Government and independent of specific sectoral interests*» (ibid. 1997:1). The agency's independence is ensured by its right to freely publish its advice (Food Standards Act 1999: article 19). This implies independence from both vested interests and from central authorities perceived to be more directly involved in policy decisions. The ideal of separating policy and management issues, frequently referred to in literature, is obviously important. Independence seems to be the keyword in trying to ensure a form of neutrality or objectivity in order to secure public confidence. However, as discussed this is a problematical goal, involving conflicting priorities and value-based considerations.

Transparency, openness and consultation are elements used to assure public involvement (White Paper 1998:5), and can be seen as ways to ensure confidence in decision-making. The recognition of public involvement demonstrates a fundamental acceptance of diverse interests. This could conflict with the agency's desired independence, and could result in a rather ambiguous approach. On the other hand, the inclusion of other 'interested parties' opens up for an understanding of risk regulation as something more than a mere neutral technocratic or scientific question. In effect, other values and interests are recognised as important to the regulation of food safety as well.

This agrees with Joerges et al. (1997) and Vos (2000a): Separating risk assessment and risk management in order to preclude policy-based decisions is a difficult – if not impossible – operation. The inclusion of ‘other interests’ also takes heed of Selznick’s argument, that regulation involves socially valued activities.

Despite its alleged importance, the independence principle might be further compromised by the structure of the agency. FSA staff are legally civil servants, and as such a part of central administration (FSA 2000). Although the agency is a separate administrative body, employees are still governed by the same rules and incorporated values as other civil servants, and in general they are often recruited from central administration. Largely, FSA staff was former employed either in MAFF or DoH.<sup>12</sup> They could transfer dominant practices and values from their former departments, and have loyalties towards their former work-place that can compromise the independence ideal. Furthermore, members of the agency’s board are appointed by the secretary of state for health and by the regional assemblies of Wales, Scotland and Northern Ireland (Food Standards Act 1999: Article 2). This secures a regional element which continues to be important in British policy, and implies that regional considerations are legitimate in decision-making within the agency. Individual board members are also chosen for their diverse relations to different segments of the food industry and food safety regulation area, and include members from various segments of society, ranging from academia to the food business sector.<sup>13</sup> This could further compromise the interest of operating independently from sectoral interests. Finally, none of the agency’s advisory committees are composed exclusively of scientists.<sup>14</sup> They include academics as well as representatives from industry and law-enforcement bodies, consumers and other non-specialists. A tentative conclusion is that it is difficult for the agency to be completely independent of central authority or of ‘other interested parties’, even though members are not *directly* representatives of any organisation or sector.

An important question is whether complete independence actually is possible – or feasible. The integrated approach – involving ‘other interested parties’ in management and decision-making – might be characteristic of the British approach to public policy. It represents an important recognition of diverse interests in potentially conflicting policy areas. On the other hand, the mingling of interests, scientific judgement and policy considerations may also complicate decision-making.

## The European Food Safety Authority

The food sector is an area of regulation that dates back to the earliest days of the European community. The form, direction and goals of food regulation in the EU have

---

<sup>12</sup> Interview with informants in MAFF and DoH 1999 and in FSA 2000.

<sup>13</sup> A detailed presentation of the board members and their interests is published on the Food Standards Agency’s website: <http://www.food.gov.uk/aboutus/ourboard/boardmem/?version=1>

<sup>14</sup> Sectoral connections of members of the individual advisory committees in the Food Standards Agency are made public at the Food Standards Agency’s website: <http://www.food.gov.uk/science/ouradvisors/?version=1>

changed significantly over time. It started off as provisions necessary to fulfil the harmonization goals of a common market, but over the years came to form a policy goal in its own right, which ultimately aims at ensuring safe food for European consumers (Hellebø 1999). A parallel shift in regulation away from efforts to approximate national legislation (vertical regulation) to a more widespread use of horizontal framework regulation has been described by Hellebø (1999) and Jukes (1995).

Important changes in the EU were triggered by BSE, although in this case it took longer before they were embodied in an agency (Table 1). As in Britain, EU institutions – in particular the Commission – were criticised for their handling of BSE. This was made public by a temporary European Parliament committee set up to report on «...*the alleged contraventions or maladministration in the implementation of Community law in relation to BSE*» (EP 1997). A debate on BSE and the inquiry committee report was held in the European Parliament in February 1997. Jaques Santer (president of the Commission) held a speech in which he answered some of the criticisms that were raised. Here, the establishment of an independent agency, based on the «...*positive aspects of the United States Food and Drugs Administration*» (Santer 1997), was proposed for the first time. The United States Food and Drug Administration (US FDA) can be characterised as a regulatory agency. This implies that it is responsible for enforcement and monitoring tasks, as well as educational tasks.<sup>15</sup> Thus it is more powerful than traditional EU agencies and many national European agencies. The realisation of Santer's proposal would imply a break with the existing agency approach, characterised by weaker, information-based agencies as described by Majone (1997), Kreher (1997), Dehousse (1997) and Shapiro (1997).

In 1997 a number of institutional reforms were agreed upon in a Communication on Consumer Health and Food Safety (COM (97) 183). Responsibility for food safety was transferred within the Commission from the Directorate Generals of Agriculture and Industry to a reformed Directorate General for Consumer Policy and Health (DG Sanco). This reflected the need to establish food safety matters as a public health concern separated from commercial agricultural interests, similar to developments in Britain a few years later, and – importantly – in agreement with the historically based tradition of seeing food control as a public health issue. An inspection office under the Commission, responsible for overseeing member state implementation of European food legislation, was set up. Here, a principle of separating scientific advice and control activities from legislative functions was emphasised. With the establishment of the Food and Veterinary Office (FVO), further attention was attracted to divergencies in regulation and food control in the member states. The establishment of the FVO is therefore also an important prelude to the establishment of EFSA.

A Commission Green Paper on «*The General Principles of Food Law in the European Union*» was laid before the European Parliament and the member states two months after Santer's speech (COM (97) 176). This was the first major policy document to review the totality of food regulation and control in the EU, and it anticipated the establishment of a general food law within the EU. Aspects including both regulation and control were discussed, and issues concerning proper risk assessment were essential.

---

<sup>15</sup> The tasks and responsibilities of the US FDA are described at the agency's website: [www.fda.gov](http://www.fda.gov)

It balanced different goals that can be seen as at least partly conflicting: To ensure a high level of consumer protection, while at the same time securing the internal market and the competitiveness of European industry (COM (97) 176:3). These potentially conflicting goals continue to influence discussions on food safety within the EU. Although the Green Paper did not specifically suggest the establishment of a new food agency, it was an important framework for the following development and the eventual establishment of EFSA. A widespread hearing in the member states revealed major support for a change in the organisation and regulation of food safety in the EU.

In 1999, the Commission invited professors Pascal, Kemper and James (the same James who was involved in the British case) to produce an «independent report on the future of scientific advice in the EU» (James et al. 1999).<sup>16</sup> They re-launched the debate on a food agency in the EU, by recommending the establishment of an independent *Food and Health Authority*. The proposed structure was, once again, an independent authority analogous to the US FDA, albeit «...*more independent of political and industrial interests*» (ibid. 7). As in the British case, the restoration of public confidence was a major concern (ibid. 13). The failure of the EU was related to what was seen as an artificial separation of risk assessment, risk communication and risk management (ibid. 9, 14). The advantage of incorporating the three aspects of risk analysis, as had been done in the British case (the ‘integrated approach’), was emphasised. The proposed authority was to concentrate on tasks concerning scientific advice, the monitoring of public health, policy analysis, research policy development, communication, and crisis management (EU Commission 1999: IP/99/973).

As in the James report, the Commission envisaged significant involvement of public interest groups. It also emphasised direct accountability to elected representatives in the European Parliament (ibid. 19). The realisation of the proposed Food and Health Authority would, as Buonanno et al. (2001) point out, break new ground in the development of the EU, and for the first time remove the control function for a social policy from the Commission *and* from the domain of the member states. This would be a definite step towards further European integration. As in Santer’s proposal, the agency would differ from the weaker, more information-based agencies established directly under Commission control.

The EU Green Paper (COM (97) 176) and the James, Kemper and Pascal report were followed by a White Paper on Food Safety in January 2000 (COM (99) 719), which proposed the establishment of EFSA. However, the proposed agency would be limited in scope compared to the agency suggested by the professors, and more in tune with the prevailing EU agency model. The White Paper specifically rejected the idea that the agency should be responsible for risk management, which might otherwise result in «...*possible dilution of democratic accountability, breach with the designated responsibilities of the Commission, and possible violation of Treaty provisions regarding the institutional arrangements of the European Union*» (ibid. 15). The separation of risk management from risk assessment differs from the integrated approach in Britain. At the same time it agrees with existing

---

<sup>16</sup> The three authors were all members of the Scientific Steering Committee, sorting under the Directorate general for Health and Consumer Protection of the European Commission.

EU institutional arrangements. Presumably then, existing institutional arrangements in the EU had an important say in the way the agency was structured in the end.

In November 2000 a regulation proposal followed the White Paper (COM (2000) 716). In general it followed the suggestions of the White Paper: to establish a European food agency with responsibility limited to risk assessment (scientific advice, monitoring and research) and risk communication. An amended proposal was published in August 2001 (COM (2001) 475), and in January 2002 a regulation establishing the authority was adopted (Regulation No 178/2002). Only minor adjustments were made along the way. In principle the final regulation followed the main lines of the White Paper. The principle of separating risk assessment (in the Agency) and risk management (in the Commission) was firmly established. The agency was set up provisionally in Brussels in 2002, while disputes concerning the permanent location continued. Finally, a Council decision late 2003 decided on Parma, Italy (EFSA 2003).

The regulation establishing EFSA has its basis in central objectives that also formally guide the overall approach of European food law, and which are clear in several of the regulation's articles (articles 1, 5, 8 and 22). These articles might serve as indications of the main aims and motivations guiding the new agency. They express a dual aim corresponding to that of the British case: to protect public health and secure safe food on the one hand, and to ensure the operation of the (internal) market on the other. Thus, this dual aim is a central aspect of food safety regulation in general, as well as apparent in most of the underlying documents on food regulation in the EU.

An objective of securing the internal market (article 1) can be seen as serving further European integration, through a harmonisation of national mechanisms. This seems to be an important motivation behind the establishment of EFSA, in addition to the primary interest of ensuring safe food. The prominence of this aim is evident also in the opening statement of the regulation establishing EFSA: «*The free movement of food and feed within the Community can be achieved only if food and feed safety requirements do not differ significantly from Member State to Member State*» (Regulation (EC) No 178/2002: point 3). The interest in furthering European integration is also evident by the establishment of a network of food experts within the framework of the European Union. Article 22 (2) states that «*...the Authority shall provide scientific advice and scientific and technical support for the Community*».

The regulation further prescribes that EFSA shall consist of a scientific committee and permanent scientific panels (article 28). Until today, food experts have mainly participated in the EU through scientific and advisory committees adjoined to the Commission. This is accounted for by for instance Joerges et al. (1997), Joerges and Everson (2000) and Vos (2000a). With the establishment of EFSA, scientific experts in the EU will participate in a more permanent structure detached from Commission activity. This organisation might prove an important counterweight against competing scientific and political judgments in other major trading countries – for instance the US.

*Restoring consumer confidence* in the aftermath of the BSE crisis is important in the EU – as it is in the British case. This is amply expressed in all the EU documents listed in table 1. In the introduction on the regulation proposal the phrase 'consumer confidence' is used no less than 11 times (COM (00) 716: 5–25). Consumer confidence is also central in the final adopted regulation (Regulation (EC) No 178/2002: points 9, 22, 23, 35 and 40). On the one hand, consumer confidence means confidence in food, food

production and the food trade. But it also implies confidence in European food regulation and relevant institutions, and the capabilities and effectiveness of EU institutions in general. The centrality of ensuring confidence further emphasises the value of food safety in governmental activity and society at large, and is vital in securing the internal market.

The main instruments in EU food regulation mentioned are *scientific excellence*, *independence* and *transparency* (COM (00) 716 final: 13–14). Again, this mirrors the phrasing of the documents establishing the FSA. And, as in the British case, *independence* is central. Thus, the classic doctrine of separating policy and management is present here as well. But independence in what way? The regulation (Regulation (EC) No 178/2002) includes specific articles on independence (article 37) and transparency (article 38). The agency is to operate independently of the Commission as well as of perceived vested interests. Nevertheless, complete independence of action is difficult to achieve. The Authority's management board includes a representative from the Commission, and have members with backgrounds in consumer affairs and industry, as well as from national ministries and food control authorities (Press release IP/01/1789, Regulation (EC) No 178/2002: article 25). EFSA's Advisory Forum consists of members from competent bodies in each of the member states (COM (00) 716 final: 49, Regulation (EC) No 178/2002: article 27). This secures an intergovernmental element, which is important throughout the structure of the European Union. It might on the other hand influence members, compromising their independence. Scientific committees that earlier operated within the Commission (DG Sanco) were transferred to the new agency. Their close relations with the Commission and their experience of its ways of 'thinking and acting' are likely to have impact on decisions within the new agency. The structure of the agency and the members it incorporates are not chosen by chance. Earlier and existing institutional arrangements influence the way the new agency is organized. We can assume that administrative cultures and values are carried on by the people inhabiting the new agency. These factors can also be observed in the British case.

In one way EFSA achieves the desired split between risk assessment and risk management, insofar as its scope of operation covers risk assessment and risk communication only. This differs from the British 'integrated approach' whereas the FSA incorporates regulative tasks as well. However, by involving national representatives and former representatives of consumer groups and industry, other interests than those based solely on scientific judgements are included. This might bring the overall EU approach closer to the British 'integrated approach' after all, even though the EU's rhetoric on the importance of separating policy, regulation and scientific risk assessment in the policy documents studied here, is more explicit.

## Discussion

A historical institutional approach focuses attention on institutions and their formation through time. Selznick's approach to institutions and his definition of regulation (Selznick 1985) has inspired a focus on the motivations ruling the creation of two new

food agencies: EFSA and the FSA. Historical institutionalists have been criticised for being focused on continuity rather than change. However, Thelen and Steinmo (1992) introduce a concept of 'institutional dynamism', encouraging studies looking at how institutions embedded in history might change. In this article, I have emphasised both continuity and change. With the creation of EFSA and the FSA, new organisations have been established making way for changes in policy. At the same time, food safety regulation constitutes a particular policy field with a long tradition that continues to influence it. Food safety is an essential task for any government, and has a particular value involving confidence in and legitimacy of governing institutions. The importance of food policy is illustrated by the continuous dominance of the dual aim in food control: securing safe food for the consumer and protecting the market and the honest producer or tradesman. It concerns public health as well as order at the marketplace.

The events within the field of food policy in the aftermath of BSE illustrated that institutions, although embedded in historical traditions, are not unchangeable. At the same time solutions sought are not chosen without reference to previous or existing arrangements. BSE spurred 'institutional dynamism' in the field of food policy, and changes took place within different national and institutional settings. From there followed both similarities and differences in outcome. The analysis of the events in Britain and in the EU shows similar paths and different choices at the same time.

BSE prompted serious criticism of the ways in which food regulation was organised. The crisis exposed conflict between health and agricultural departments of government, and challenged co-operation within the EU. Relations between expert advisors and policy-makers and between control institutions and central government were questioned. With the organisational changes following, food safety has been (re-) established as an important public health concern distinctly separated from commercial and agricultural interests.

The centrality of restoring consumer confidence is demonstrated by the speed of events, and underlined in the policy documents analysed. Both agencies were created within two years. A similar procedure was followed in both cases. The publication of several policy documents ensured a broad debate before legislation was set forth. Independent expert reports laid the groundwork for further discussions. Even some of the same people were involved in the two processes. The creation of the agencies was further influenced by existing theories on public management and policy; separating policy and management issues in order to enhance accountability and confidence in decision-making authorities.

Consumer confidence was the key term in both settings, to be secured through 'independence, scientific excellence and transparency'. The independence ideal can be linked to an interest in detaching food policy from the influence of vested interests and to re-establish it within the public health field. It can also be related to a desire to separate policy and management issues, frequently referred to in relevant literature on the subject of public agencies. The quest for scientific excellence further reflects a high regard for expert and scientific judgments – despite earlier experiences of conflicting expert assessments and uncertain scientific results. Reliance on scientific expertise alone is however problematic. Food safety regulation is a complex matter that also involves

normative social values, judgements based on ethics, and policy considerations that surpass strictly scientific assessments.

The agency literature shows that agencies can be difficult to capture analytically. A working definition based on the criteria of Pollitt and Talbot (2004) is useful. By restricting the study to food agencies, we can examine a particular field of regulation and a specific valued task embodied within the organisation. Agencies within the same field of regulation may vary in terms of remit, organization, independence, approach and input (groups of actors within the organization). At the same time, similarities can be attributed to attachment to the particular policy field. Differences between the agencies can at least in some part be related to differences of context and institutional settings, traceable to choices made earlier in the history of the food policy field. Existing and past institutional arrangements influence future adjustments.

While previous arrangements are important in order to understand regulation in a particular policy field, deep-rooted crises can indulge important institutional changes and direct institutionalized arrangements, traditions and values into new channels. BSE was such a crisis. Taken together, this can explain how the two agencies were set up, and the structures chosen for them. The establishment of the two agencies show variations related to their different institutional settings. EFSA surfaced with restricted powers in terms of regulative authority compared to initial proposals. Its main functions are related to scientific risk assessment. Food control is still the responsibility of member states. The existing structure and division of powers in the EU, between EU institutions and member states, and between the Commission responsible for policy issues and other bodies designed for management purposes, proved to be a strong model for the new agency. The structure of the British administration allowed for a stronger agency including regulatory tasks. FSA was set up as an independent agency, but placed under the Department of Health. Here, previous arrangements, such as the organisation of the scientific committees as well as regional representation have survived within the new organisation. In both cases the recruitment of people from bodies formerly responsible for food safety issues or from other bodies of central administration might indicate transference of existing values and practices from other government bodies. Whether the alleged independence of the agencies creates new practices and cultures, or reproduces old problems remains to be seen.

In sum, the solutions sought in the establishment of both agencies reflect an interest in changing institutions, but at the same time represent extensions of existing institutional arrangements and traditions. This shows the advantage of a historical institutional approach incorporating openness for mechanisms of institutional and political change.

## References

- Baggot, Rob (1998) «The BSE crisis: public health and the ‘risk society’». In Pat Gray and Paul t’Hart (eds.): *Public Policy Disasters in Western Europe*. London and New York: Routledge.
- Boin, Arjen and Paul t’Hart (2003) «Public Leadership in Times of Crisis: Mission Impossible?», *Public Administration Review*, 63(5):544–553.
- Bovens, Mark, Paul t’Hart and B. Guy Peters (1998) «Explaining policy disasters in Europe». In Pat Gray and Paul t’Hart (eds.): *Public Policy Disasters in Western Europe*. London and New York: Routledge.
- BSE Inquiry Report (2000) «The Inquiry into BSE and variant CJD in the United Kingdom», available at: <http://www.bseinquiry.gov.uk/>
- Buonanno, Laurie, Sharon Zablony and Richard Keefer (2001) «Politics versus Science in the Making of a New Regulatory Regime for Food in Europe», *European Integration online Papers (EioP)* 5(12), <http://eiop.or.at/eiop/texte/2001-012a.htm>
- Cannon, Geoffrey (1987) *The Politics of Food*. London: Century Hutchinson Ltd.
- COM (97) 176: «Commission Green Paper on Food Law».
- COM (97) 183: «Commission Communication on Consumer Health and Food Safety».
- COM (98) 32: «Commission Communication on Food, Veterinary and Plant Health Control and Inspection».
- COM (99) 719: «Commission White Paper on Food Safety».
- COM (00) 716: «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 (01) 475: «Amended regulation on the European Food Authority».
- Consumer Voice (2000) «Special Edition 2000», European Commission: General Directorate for Public Health and Consumer Protection.
- Dehousse (1997) «Regulation by networks in the European Community: the role of European agencies», *Journal of European Public Policy*, 4(2): 246–61.
- Elvbakken, Kari Tove (1997) «Offentlig kontroll av næringsmidler: institusjonalisering, apparat og tjenestemenn». Bergen: Institutt for administrasjon og organisasjonsvitenskap and Senter for Samfunnsforskning.
- EFSA (2003) EFSA Press Release 15 December 2003, available at: [http://www.efsa.eu.int/press\\_room/press\\_release/32\\_en.html](http://www.efsa.eu.int/press_room/press_release/32_en.html)
- EP (1997) «Report on alleged contraventions or maladministration in the implementation of Community law in relation to BSE», European Parliament Report: A4-0020/97, available at [http://www.europarl.eu.int/committees/bse\\_home.htm](http://www.europarl.eu.int/committees/bse_home.htm)
- EU (2000) «Agencies of the European Union», available at: [http://europa.eu.int/agencies/docs/resume\\_en.pdf](http://europa.eu.int/agencies/docs/resume_en.pdf)
- EU Commission (1999) «Scientists recommend Food and Health Authority to advise the EU», press release IP/99/973, available at <http://www.europa.eu.int/rapid/start/cgi/guesten.ksh>
- European Dialogue (1996) «European Dialogue. The Magazine for European Integration», Sep–Oct 1996 Issue 5, at [http://europa.eu.int/comm/dg10/eur\\_dial/frameset\\_current.html](http://europa.eu.int/comm/dg10/eur_dial/frameset_current.html)
- Food Standards Act, 1999. London: The Stationary Office.
- FSA (2000) «Food Standards Agency Business Plan 2000–2001».
- Grant, Wyn (1997) «BSE and the politics of food». In Dunleavy et al. (eds.): *Developments in British Politics*, 5. London: Macmillan Press Ltd.

- Fligstein, Neil and Iona Mara-Drita (1996) «How to Make a Market: Reflections on the Attempt to Create a Single Market in the European Union», *The American Journal of Sociology*, 102(1):1–33.
- Hellebø, Lise (1999) «Food control and food regulation in the European Union», SEFOS-notat 6, Bergen: Senter for samfunnsforskning.
- James, Philip (1997) «The Food Standards Agency». An Interim Proposal by Professor Philip James, 30<sup>th</sup> April 1997.
- James, Philip, Fritz Kemper and Gerard Pascal (1999) «A European Food and Public Health Authority. The future of scientific advice in the EU», December 1999, [http://europa.eu.int/comm/food/fs/sc/future\\_food\\_en.html](http://europa.eu.int/comm/food/fs/sc/future_food_en.html)
- Joerges, Christian and Michelle Everson (2000) «Challenging the bureaucratic challenge», in E.O. Eriksen and J. E. Fossum (eds.): *Democracy in the European Union. Integration through deliberation?* London and New York: Routledge.
- Joerges, Christian and Joseph Neyer (1997) «Transforming strategic interaction into deliberative problem-solving: European comitology in the foodstuffs sector», *Journal of European Public Policy*, 4(4): 609–625.
- Joerges, Christian, Karl-Heinz Ladeur and Ellen Vos (eds.) (1997) *Integrating Scientific Expertise into Regulatory Decision-Making*. Baden-Baden: Nomos Verlagsgesellschaft.
- Jukes, David (1995) «Food Law Harmonization Within Europe – A Learning Opportunity», *Food Control*, 6(6): 283–287.
- Krasner, Stephen D. (1984) «Approaches to the State: Alternative Conceptions and Historical Dynamics», *Comparative Politics*, 16(2):223–246.
- Kreher, Alexander (1997) «Agencies in the European Community – a step towards administrative integration in Europe», *Journal of European Public Policy*, 4(2): 225–45.
- Majone, Giandomenico (1996a) *Regulating Europe*. London and New York: Routledge.
- Majone, Giandomenico (1996b) «New Agencies in the EC: Regulation by information», in Alexander Kreher (ed.): *The New European Agencies*. Conference Report, EUI Working Paper RSC No. 96/49, Florence: European University Institute.
- Majone, Giandomenico (1997) «The new European agencies: regulation by information», *Journal of European Public Policy*, 4(2): 262–275.
- Majone, Giandomenico (2000) «The Credibility Crisis of Community Regulation», *Journal of Common Market Studies*, 38(2): 273–302.
- March, James G. and Johan P. Olsen (1989) *Rediscovering Institutions. The Organizational Basis of Politics*. New York: Free Press.
- Millstone, E. and P. van Zwanenberg (2002) «The Evolution of Food Safety Policy-making Institutions in the UK, EU and Codex Alimentarius», *Social Policy and Administration*, 36(6):593–609.
- Peters, Guy B. (1999) *Institutional Theory in Political Science. The «New Institutionalism»*. London and New York: Pinter.
- Pierson, Paul (2000) «Increasing Returns, Path Dependence, and the Study of Politics», *The American Political Science Review*, 94(2):251–267.
- Pollitt, Christopher (2003) «Agencies, Apples and Pears: Mapping the Agency Debate», paper presented to the 7<sup>th</sup> International Research Seminar in Public Management (IRSPM7), Hong Kong: 2–4 April 2003.
- Pollitt, Christopher and Colin Talbot (eds.) (2004) *Unbundled Government. A critical analysis of the global trend to agencies, quangos and contractualisation*. London and New York: Routledge.
- Powell, Walter W. and Paul J. DiMaggio (eds.) (1991) *The New Institutionalism in Organizational Analysis*. Chicago and London: The University of Chicago Press.
- 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.

- Rhodes, R. A. W. (1996) «The New European Agencies. Agencies in British Government: Revolution or Evolution?», *EUI Working Paper /Robert Schuman Centre No. 51*. Florence: European University Institute.
- Santer, Jaques (1997) Speech/97/39, Speech by Jaques Santer, President of the European Commission, Strasbourg, 18 February 1997.
- Scott, Richard W. (1995) *Institutions and Organizations*. London: Sage Publications.
- Selznick, Philip (1985) «Focusing on organisational research on regulation». In Noll (ed.): *Regulatory Policy and the Social Sciences*. Berkeley: University of California Press.
- Shapiro, Martin (1997) «The problem of independent agencies in the United States and the European Union», *Journal of European Public Policy*, 4(2): 276–91.
- Smith, Martin J. (1991) «From Policy Community to Issue Network: Salmonella in Eggs and the New Politics of Food», *Public Administration*, 69:235–255
- Stinchcombe, Arthur L. (1997) «On the Virtues of the Old Institutionalism», *Annual Review of Sociology*, 23: 1–18.
- Talbot, Colin (2004) «The Agency idea. Sometimes old, sometimes new, sometimes borrowed, sometimes untrue». In Christopher Pollitt and Colin Talbot (eds.): *Unbundled Government. A critical analysis of the global trend to agencies, quangos and contractualisation*. London and New York: Routledge.
- Thelen, Kathleen (1999) «Historical Institutionalism in Comparative Politics», *Annual Review of Political Science*, (2): 369–404.
- Thelen, Kathleen and Svein Steinmo (1992) «Historical institutionalism in comparative politics». In S. Steinmo, K. Thelen and F. Longstreth (eds.): *Structuring Politics. Historical Institutionalism in Comparative Analysis*. Cambridge: Cambridge University Press.
- Vos, Ellen (2000a) «EU Food Safety Regulation in the Aftermath of the BSE Crisis», *Journal of Consumer Policy*, (23): 227–255.
- Vos, Ellen (2000b) «Reforming the European Commission: What role to play for EU agencies?», *Common Market Law Review*, (37): 1113–1134.
- White Paper (1998) «The Food Standards Agency. A Force for Change», Her Majesty's Stationary Office: Dd 5067760 1/98 48003 Job No 319.

**WORKING PAPERS ROKKANSENTERET (ISSN 1503-0946)**

The publications can be ordered from Rokkansenteret, tel +47 55 58 97 10,  
e-mail: [post@rokkauib.no](mailto:post@rokkauib.no), <http://www.rokkansenteret.uib.no>

**2004**

- 1-2004** *Dag Olaf Torjesen and Hallgeir Gammelsæter*: «Management Between Autonomy and Transparency in the Enterprise Hospital». January 2004.
- 2-2004** *Haldor Byrkjeflot and Simon Neby*: «The Decentralized Path Challenged? Nordic Health Care Reforms in Comparison». January 2004.
- 3-2004** *Tom Christensen and Per Læg Reid*: «The Fragmented State – the Challenges of Combining Efficiency, Institutional Norms and Democracy». March 2004.
- 4-2004** *Morten Dyrdal*: «Europeisering av tilsynsmyndigheter i Norge og Sverige». Mars 2004.
- 5-2004** *Karsten Vrangbæk and Katarina Østergren*: «The Introduction of Choice in Scandinavian Hospital Systems. Arguments and Policy Processes in the Danish and the Norwegian Case». March 2004.
- 6-2004** *Marit Tjomsland*: «Internationalization at Norwegian Universities and Colleges after the Quality Reform». April 2004. The Globalization Program.
- 7-2004** *Hans-Tore Hansen, Anne Hege Trædal-Henden, Olaf Jürgens and Wolfgang Voges*: «Poverty among Households with Children: A Comparative Study of Lone Parents and Couples with Children in Norway and Germany». April 2004.
- 8-2004** *Renate Støretvedt Lien og Arnhild Taksdal*: «Integrering av kjønnsperspektiv i offentlig tjenesteproduksjon og planlegging». Mai 2004.
- 9-2004** *Ingrid Helgøy og Synnøve Serigstad*: «Tilsyn som styringsform i forholdet mellom staten og kommunene». Mai 2004.
- 10-2004** *Morten Dyrdal*: «Legemiddeltilsyn og europeisering». September 2004.
- 11-2004** *Bodil Ravneberg*: «Økonomiske incentiv i arbeidslinjen, virker det? Evaluering av forsøksordning med kvalifiseringsstønad i 'Prosjektet Amalie' i Åsane». Oktober 2004.
- 12-2004** *Per Læg Reid and Synnøve Serigstad*: «Organizing for Homeland Security: The Case of Norway». November 2004.
- 13-2004** *Ivar Bleiklie*: «Institutional Conditions and the Responsibilities of Universities». November 2004.
- 14-2004** *Lise Hellebø*: «Food Safety at Stake – the Establishment of Food Agencies». November 2004.

**2003**

- 1-2003** *Tom Christensen og Per Læg Reid*: «Politisk styring og privatisering: holdninger i elitene og befolkningen». Mars 2003.
- 2-2003** *Ivar Bleiklie, Per Læg Reid and Marjoleine H. Wik*: «Changing Government Control in Norway: High Civil Service, Universities and Prisons». March 2003.
- 3-2003** *Badi H. Baltagi, Espen Bratberg and Tor Helge Holmås*: «A Panel Data Study of Physicians' Labor Supply: The Case of Norway». March 2003. HEB.
- 4-2003** *Kjell Erik Lommerud, Frode Meland and Lars Sørgard*: «Unionised Oligopoly, Trade Liberalisation and Location Choice». March 2003. The Globalization Program.
- 5-2003** *Lise Hellebø*: «Nordic Alcohol Policy and Globalization as a Changing Force». April 2003.
- 6-2003** *Kim Ove Hommen*: «Tilsynsroller i samferdselssektoren». April 2003.
- 7-2003** *Tom Christensen and Per Læg Reid*: «Trust in Government – the Significance of Attitudes Towards Democracy, the Public Sector and Public Sector Reforms». April 2003.
- 8-2003** *Rune Ervik*: «Global Normative Standards and National Solutions for Pension Provision: The World Bank, ILO, Norway and South Africa in Comparative Perspective». April 2003. The Globalization Program.
- 9-2003** *Nanna Kildal*: «The Welfare State: Three Normative Tensions». Mai 2003.
- 10-2003** *Simon Neby*: «Politisk styring og institusjonell autonomi – tre illustrasjoner». Mai 2003.
- 11-2003** *Nina Berven*: «Cross National Comparison and National Contexts: Is what we Compare Comparable?». July 2003. The Globalization Program.
- 12-2003** *Hilde Hatleskog Zeiner*: «Kontrollhensyn og kontrollpraksis. En studie av Food and Veterinary Office (FVO)». August 2003.
- 13-2003** *Nanna Kildal*: «Perspectives on Policy Transfer: The Case of the OECD». August 2003.

- 14-2003 Erik Allardt: «Two Lectures: Stein Rokkan and the Twentieth Century Social Science». «Den sociala rapporteringens tidstypiska förankring». September 2003.
- 15-2003 Ilcheong Yi: «The National Patterns of Unemployment Policies in Two Asian Countries: Malaysia and South Korea». September 2003. The Globalization Program.
- 16-2003 Dag Arne Christensen: «Active Ageing: Country Report Norway». November 2003.
- 17-2003 Kim Ove Hommen: «Tilsynspolitikk i Norge: Utflytting og autonomi». November 2003.
- 18-2003 Dag Arne Christensen, Rune Ervik and Ingrid Helgøy: «The Impact of Institutional Legacies on Active Ageing Policies: Norway and UK as Contrasting Cases». December 2003.
- 19-2003 Ole Frithjof Norheim og Benedicte Carlsen: «Legens doble rolle som advokat og portvakt i Fastlegeordningen. Evaluering av fastlegeordningen». Desember 2003. HEB.
- 20-2003 Kurt R. Brekke og Odd Rune Straume: «Pris- og avanseregulering i legemiddelmarkedet. En prinsipiell diskusjon og en vurdering av den norske modellen». Desember 2003. HEB.
- 21-2003 Per Læg Reid, Vidar W. Rolland, Paul G. Roness and John-Erik Ågotnes: «The Structural Anatomy of the Norwegian State 1947–2003». December 2003.
- 22-2003 Ivar Bleiklie, Haldor Byrkjeflot and Katarina Östergren: «Taking Power from Knowledge. A Theoretical Framework for the Study of Two Public Sector Reforms». December 2003. ATM.
- 23-2003 Per Læg Reid, Ståle Opedal and Inger Marie Stigen: «The Norwegian Hospital Reform – Balancing Political Control and Enterprise Autonomy». December 2003. ATM.
- 24-2003 Håkon Høst: «Kompetansemåling eller voksenutdanning i pleie- og omsorgsfagene? Undervisningsrapport fra en studie av pleie- og omsorgsutdanningene». Desember 2003.
- 25-2003 Kjell Erik Lommerud, Odd Rune Straume and Lars Sørgeard: «Downstream merger with upstream market power». The Globalization Program. December 2003.
- 26-2003 Ingrid Drexel: «Two Lectures: The Concept of Competence – an Instrument of Social and Political Change». «Centrally Coordinated Decentralization – No Problem? Lessons from the Italian Case». December 2003.

## 2002

- 1-2002 Håkon Høst: «Lærlingeordning eller skolebasert utdanning i pleie- og omsorgsfagene?». April 2002.
- 2-2002 Jan-Kåre Breivik, Hilde Haualand and Per Solvang: «Rome – a Temporary Deaf City! Deaflympics 2001». June 2002.
- 3-2002 Jan-Kåre Breivik, Hilde Haualand og Per Solvang: «Roma – en midlertidig döv by! Deaflympics 2001». Juni 2002.
- 4-2002 Christian Madsen: «Spiller det noen rolle? – om hverdagen på nye og gamle sykehjem». Juni 2002.
- 5-2002 Elin Aasmundrud Mathiesen: «Fritt sykehusvalg. En teoretisk analyse av konkurranse i det norske sykehusmarkedet». Juni 2002. HEB.
- 6-2002 Tor Helge Holmås: «Keeping Nurses at Work: A Duration Analysis». June 2002. HEB.
- 7-2002 Ingvild Halland Ørnsrud: «Mål- og resultatstyring gjennom statlige budsjettreformer». Juli 2002.
- 8-2002 Torstein Haaland: «Tid, situasjonisme og institusjonell utakt i systemer». Juli 2002.
- 9-2002 Kristin Strømsnes: «Samspillet mellom frivillig organisering og demokrati: Teoretiske argument og empirisk dokumentasjon». August 2002.
- 10-2002 Marjoleine Hooijkaas Wik: «Mangfold eller konformitet? Likheter og forskjeller innenfor og mellom fem statlige tilknytningsformer». August 2002.
- 11-2002 Knut Helland: «Den opprinnelige symbiosen mellom fotball og presse». September 2002.
- 12-2002 Nina Berven: «National Politics and Global Ideas? Welfare, Work and Legitimacy in Norway and the United States». September 2002. The Globalization Program.
- 13-2002 Johannes Hjellbrekke: «Globalisering som utfordring til samfunnsvitskapane». September 2002. Globaliseringsprogrammet.
- 14-2002 Atle Møen: «Den globale produksjonen av symbol og kunnskap. Verdsflukt og verdsherredømme». September 2002. Globaliseringsprogrammet.
- 15-2002 Tom Christensen and Per Læg Reid: «Complex Patterns of Interaction and Influence Among Political and Administrative Leaders». October 2002.
- 16-2002 Ivar Bleiklie: «Hierarchy and Specialization. On Institutional Integration of Higher Education Systems». Oktober 2002.

- 17-002 *Per Læg Reid, Runolfur Smari Steinthorsson and Baldur Thorhallsson*: «Europeanization of Public Administration: Effects of the EU on the Central Administration in the Nordic States». November 2002.
- 18-2002 *Tom Christensen and Per Læg Reid*: «Trust in Government – the Relative Importance of Service Satisfaction, Political Factors and Demography». November 2002.
- 19-2002 *Marit Tjomsland*: «Arbeidsinnvandrings situasjonen i Norge etter 1975». November 2002. Globaliseringsprogrammet.
- 20-2002 *Augustín José Menéndez m.fl.*: «Taxing Europe. The Case for European Taxes in Federal Perspective». December 2002. The Globalization Program.
- 21-2002 *Fredrik Andersson and Kai A. Konrad*: «Globalization and Risky Human Capital Investment». December 2002. The Globalization Program.
- 22-2002 *Fredrik Andersson and Kai A. Konrad*: «Human Capital Investment and Globalization in Extortionary States». December 2002. The Globalization Program.
- 23-2002 *Anne Lise Fimreite, Yngve Flo og Jacob Aars*: «Generalistkommune og oppgavedifferensiering. Tre innlegg». Desember 2002.
- 24-2002 *Knut Grove*: «Frå privat initiativ til kommunalt monopol. Lysverk, sporvegar og renovasjon i Bergen og Oslo 1850–1935». Desember 2002.
- 25-2002 *Knut Grove*: «Mellom 'non-intervention' og 'samfundsvillie'. Statleg og kommunal regulering av økonomisk verksemd i Norge på 1800-talet». Desember 2002.
- 26-2002 *Dag Arne Christensen*: «Hovedtyper av valgordninger. Proporsjonalitet eller politisk styring?». Desember 2002.
- 27-2002 *Jan Erik Askildsen, Badi H. Baltagi and Tor Helge Holmås*: «Will Increased Wages Reduce Shortage of Nurses? A Panel Data Analysis of Nurses' Labour Supply». December 2002. HEB.
- 28-2002 *Sturla Gjesdal, Peder R. Ringdal, Kjell Haug and John Gunnar Mæland*: «Medical Predictors of Disability Pension in Long-Term Sickness Absence. December 2002. HEB.
- 29-2002 *Dag Arne Christensen og Jacob Aars*: «Teknologi og demokrati. Med norske kommuner på nett!». Desember 2002.
- 30-2002 *Jacob Aars*: «Byfolk og politikk. Gjennomgang av data fra en befolkningsundersøkelse i Bergen, Oslo og Tromsø». Desember 2002.
- 31-2002 *Hjørdis Grove*: «Kommunaliseringsprosessen i Århus 1850–1940». Desember 2002.