Regulation on Official Controls

1/ General

What will the review of Official Controls change?

• Rules on official controls have been reviewed to simplify and clarify the system and create a single framework for all official controls along the agri-food chain. In particular, the proposal:
  – extends the scope of the current Regulation (EC) 882/2004 on official controls to plant health, plant reproductive material, animal by-products and plant protection products in order to cover the whole agri-food chain;
  – allows for the adoption of official control requirements adjusted to the needs of specific sectors (e.g. meat inspections, controls on organic products, animal welfare controls);
  – increases the transparency of official controls activities carried out by national authorities, and allows them – under certain conditions - to publish information on the results of controls on individual operators and to establish "rating schemes" whereby consumers can consult data on the performance of retailers, restaurants and other businesses;
  – extends mandatory fees to most official controls to ensure that Member States appropriately resource their control authorities through fees charged on operators, whilst exempting micro-businesses from those fees;
  – creates a common framework for carrying out border controls on animals and goods entering the EU;
  – eliminates inefficiencies in the system of official controls on residues of veterinary medicines in animals and animal products;
  – strengthens mechanisms for administrative assistance and cooperation between Member States in case of cross-border breaches of agri-food chain rules;
  – modernises the computerised systems for the management of data and information on official controls (a new system will integrate all existing and future systems and will allow the use of e-certificates and e-signatures).

How does the new Regulation on Official Controls address the weaknesses in the EU control system that the recent horsemeat scandal has exposed?

• The Regulation gives national enforcers a more efficient legal framework and stronger enforcement tools to deliver on their control tasks along the agri-food chain.

• It requires the performance of regular unannounced official controls directed at identifying intentional violations and that the financial penalties applied offset the economic
advantage sought by the perpetrator of the violation. It also gives the Commission more powers to:

- require (not recommend) Member States to carry out controls and analyses within a coordinated control plan of limited duration to ascertain the extent of specific shortcomings along the food chain; and
- establish permanent specific control requirements in relation to specific sectors and/or newly identified risks which emerge along the agri-food chain or which emerge from new patterns of production or consumption of food.

- The review also aims to **strengthen the mechanisms for administrative cooperation to fight cross-border violations** of the rules and the **coordination role of the Commission** in cases of widespread or recurrent violations.

### 2/ Scope of the Regulation proposal

**Why are plant health and plant reproductive material integrated into the scope of the official controls Regulation?**

- The aim is to consolidate the integrated approach initiated through Regulation (EC) 882/2004 across the whole agri-food chain in order to guarantee a fully consistent approach to all official controls. Common principles of independence, impartiality, excellence and transparency will like this be applicable to all official controls.

- Integration of all official controls along the agri-food chain will enable Member States to carry out risk assessment and to prioritise, taking into account all agri-food chain sectors, to allow a better allocation of control resources and to increase the efficiency of the control system.

- Transitional periods will be provided where necessary to facilitate the integration of the two control systems.

**Will the extension of the scope to plant health and plant reproductive material (seeds, etc.) increase the burden on MS or stakeholders?**

- No, since official controls in this area are currently subject to a control regime which is very similar to that of Regulation (EC) 882/2004.

- For this reason, it is time to move towards a single official control regime, the one designed by Regulation (EC) No 882/2004, to cover also official controls in the plant health and plant reproductive material areas.
Will Directive 96/23 (official controls on residues of veterinary medicines) be repealed? Will this lead to looser controls on illegal substances (hormones), in particular in relation to food coming from third countries?

- Directive 96/23 will be repealed and official controls on residues of veterinary medicines will be fully aligned to the more modern principles and rules of the new official controls Regulation.

- Official controls on residues will be carried out at appropriate frequencies based on actual risks and no longer at predetermined mandatory frequencies.

- This will apply to official controls carried out in Member States and in third countries. All necessary guarantees of equivalence of their control system with EU requirements will still be required from third countries.

- The move towards risk-based frequencies of official controls will be accompanied by the possibility for the Commission to establish mandatory minimum EU frequencies of official controls to prevent the illegal use of authorised substances or the use of illegal substances (e.g. hormones).

Will the integrated approach meet the specific needs of all of the sectors?

- The new Regulation will allow the Commission to adopt, where necessary, specific sectorial rules on official controls (e.g. specific responsibilities and tasks of competent authorities, mandatory risk based minimum frequencies of official controls, specific control modalities, mandatory measures to be taken in case of specific non-compliances).

- These provisions will allow the flexibility to respond to specific needs in the sectors. In some cases this need is already established and EU rules exist already (meat, animal welfare, organic production).

3/ Official control fees

Why has the Commission extended the system of mandatory fees for official controls?

- Fees are currently mandatorily charged on operators where official controls are more intense (and therefore more costly) in particular in the fish, meat and dairy production sectors.

- The proposal will extend mandatory cost based fees to the other sectors of the agri-food chain and to nearly all official controls in order to ensure that Member States appropriately resource control authorities.

- Furthermore, by extending the scope, a far larger number of operators will pay compared to the current situation, thus putting an end to the current unfairness of the system.

Which official controls will be concerned by mandatory fees?
• Fees will be charged mandatorily for all:
  o controls on registered or approved food and feed business operators,
  o controls on operators subject to plant health controls and controls on plant reproductive material,
  o official certification controls
  o official controls to grant or check approvals or authorisations of operators,
  o official controls at border control posts
  o official controls within the framework of emergency measures (unless otherwise decided).

• No fees however will be charged for official controls:
  o carried out to verify the application of specific rules in relation to organic products, protected designations of origin (PDO), protected geographical indications (PGI) and traditional specialities guaranteed (TSG),
  o on national disease control measures.

**Will the extension of mandatory fees introduce additional costs for businesses in particular for micro-enterprises?**

• The proposal will extend mandatory fees to nearly all official controls, most of which will cost far less than controls in slaughterhouses or meat processing establishments.

• Simulations carried out suggest that fees will be affordable to all operators, including micro-businesses.

• The rules, however, will exempt micro-enterprises from the payment of fees. Available evidence demonstrates that in all Member States, micro-enterprises represent at least half of all operators. In many Member States, this figure is much higher. The percentage rises still further for agricultural operators.

• The resulting loss of revenue to the competent authorities which entails the exemption of micro-enterprises is to be adequately compensated by the Member State (but not by overcharging larger businesses).

**Why will new transparency requirements as regards the breakdown of control costs and the calculation of corresponding fees be introduced?**

• Member States will have the obligation to publish how the fees are calculated and used as well as the arrangements in place to ensure the thrifty and efficient use of the fees collected.

• It is indeed important that businesses can see what they are being charged for and how this has been calculated so that they can be reassured that costs and fees are calculated accurately and fairly.
• These new provisions enhancing transparency will act as drivers to competent authorities to improve the efficiency of their controls.

Has the Commission taken into account whether this reform will increase food prices for the end consumer?

• Consumers both inside and outside the EU are the ultimate beneficiaries of measures to ensure the safety and quality of the agri-food chain. The proposal increases costs of controls for certain operators. However, by comparison with the overall cost of food production and distribution, such an increase is expected to be small. The additional costs that may be in some cases passed on to consumers through the price of the final products will be nominal.

4/ Official controls at EU borders

How will more efficient controls be ensured at the borders? Will checks be carried out at EU borders in a systematic manner in all cases?

• The currently fragmented rules which apply to border controls on the different commodities (animals and products of animal origin, plants, food and feed of vegetable origin) will be replaced by a single framework, re-designed to ensure a streamlined approach at border controls, while taking into account the specific needs of all sectors.

• All consignments (including those of a non-commercial nature) of animals and goods subject to controls at border control posts will undergo documentary and identity checks. Physical checks (and identity checks in certain cases to be established by delegated acts) will be carried out at a frequency depending on the risk linked to the specific animals / goods or category of animals / goods.

• One common set of rules for all animals and goods subject to official controls when entering the EU will allow an integrated approach, the cross-sector prioritisation of controls according to risks and thus increased efficiency and savings.

What can be expected from the review of border controls in terms of competitiveness of European operators?

• Replacing the fragmentation of rules which currently exists in the area of import controls with integrated and harmonised rules and tools will lead to a greater clarity of the legal environment in which European businesses (importers in particular) operate and of the procedures they have to follow. This will ultimately contribute to their competitiveness in the EU market.

• Enhancing coherence in the area of import controls will also provide additional guarantees that all imports meet the relevant EU standards and, in so doing, that a level-playing field is ensured between what is produced within the EU and what comes from third countries.

As a private traveller wishing to introduce plant material into the European Union in my luggage, what restrictions will I face?
The introduction into the Union of plants regulated by the Plant Health Law by passengers in their luggage will no longer be permitted. This is necessary because plants in passenger luggage have been found to present an increasing risk for the phytosanitary status of the Union and jeopardise the success of the plant health regime.

5/ Transparency of official controls

Which are the new transparency requirements on official controls?

- Competent authorities will be obliged to publish timely and regularly information on the type/number/outcome of official controls, the type/number of non-compliances, cases where remedial actions were taken and penalties imposed.

- They will furthermore not be prevented from publishing or making otherwise available to the public information about the outcome of official controls regarding individual operators and be entitled to publish or make otherwise available to the public information about the rating of individual operators (e.g. "smileys").

Enabling competent authorities to publish the outcome of official controls on individual operators also where there is no risk for human health might adversely affect businesses. Is the increased level of transparency required by the new rules proportionate?

- Competent authorities must be accountable to citizens and consumers for their enforcement action and for the efficiency and effectiveness of official controls. This is a principle which underpins existing rules and which will be reaffirmed and strengthened in the new Regulation.

- Transparency of official controls is of the utmost importance to maintain the trust of consumers in the functioning of the EU agri-food chain and to enable consumers to participate fully in the enforcement effort by scrutinising the information which is provided by the competent authorities.

- The approach proposed is proportionate and mindful of the legitimate interest of businesses, and takes into account existing and emerging practices in the Member States:
  - publication of individual reports: prior to publishing the factual outcome of official controls carried out on an individual operator, the competent authorities must give him the opportunity to comment on the information they intend to publish, and the published information must be take into account his comments or be published together with them;
  - rating schemes (scoring, smileys, etc.): these systems can be maintained or established (Member States decide), provided that they are based on objective, transparent and publicly available rating criteria and that the rating process is consistent and transparent.
6/ Information management system

What is the "information management system for official controls" (IMSOC)?

- The EU information management system for official controls (IMSOC) will allow the integration of all existing and future computerised systems (e.g. TRACES, RASFF, Europhyt, etc.) to manage information, data and documents on official agri-food chain controls in a more efficient manner.

Will the information management system for official controls (IMSOC) be compatible with other IT systems operated at European level or in the Member States?

- The compatibility wherever appropriate given the nature of the information, data and documents exchanged, of IMSOC with other IT systems or platforms is important and will of course be taken into account when developing IMSOC and its functionalities.

7/ Exports

Is the proposal good for EU exports?

- The EU's ability to export towards third countries relies on the reputation of the high production standards and added value that EU goods can prove to have compared to the ones produced outside Europe. This can only be achieved by a reliable and trusted official control system which ensures that EU agri-food chain safety and quality standards are consistently enforced and corresponding expectations from trade partners are met.

8/ Laboratories

Will official laboratories which carry out Trichinella testing in meat still have to be accredited according to ISO 17025?

- The current mandatory accreditation according to ISO 17025 is very burdensome and disproportionate in the case of the smallest Trichinella laboratories, which are attached to a slaughterhouse or a game handling establishment and only perform this very simple type of test.

- Derogations from the accreditation requirement will thus be introduced for laboratories which only carry out detection of Trichinella in meat and use only the methods prescribed by Union rules.

9/ Animal Welfare

The proposed new Regulation repeals a number of enforcement mechanisms in Regulation (EC) No 1/2005 on the protection of animals during transport, and Regulation (EC) No 1099/2009 on the protection of animals at the time of killing. These provisions will mainly be replaced by delegated acts made under the proposed new Regulation.

How will this affect the enforcement of animal welfare law?
• The Regulation proposal:
  o eliminates redundant provisions which duplicate those more generally applicable,
  o reiterates the basic official control requirements on animal welfare (specified in Article 18(1) of the proposal, e.g. official controls to check the fitness of the animals for transport),
  o allows for the adoption of specific official control requirements by delegated acts, so making it possible to adjust official control requirements to the specificities of animal welfare,
  o allows for the introduction of animal welfare indicators.

• The elements related to the enforcement of animal welfare legislation will thus be strengthened with the proposal.

10/ Products of Animal Origin

The proposed new Regulation repeals a number of enforcement mechanisms in Regulation (EC) 854/2004 on official controls on products of animal origin. These provisions will be replaced by delegated acts made under the proposed new Regulation. How will this affect the enforcement of the provisions on the production of meat?

• The Regulation proposal:
  o eliminates redundant provisions which duplicate those more generally applicable,
  o reiterates the basic official control requirements on the production of meat (specified in Article 15(1) of the proposal, e.g. the verification, by or under the responsibility of the official veterinarian, of the health and welfare of the animals prior to slaughter),
  o allows for the adoption of specific official control requirements by delegated acts, so making it possible to adjust official control requirements to the specificities of the meat production.

• The elements related to the enforcement of the meat production legislation will thus be strengthened with the proposal.