

ANNEX

**Response of the Competent Authorities of the United Kingdom to the recommendations of Report ref. DG(SANCO)/2013-6744-MR of an audit carried out from 13 to 23 May 2013 in order to evaluate the control system for organic production and labelling of organic products**

Action plan – received on 6 September 2013

N°.	Recommendation	Action Proposed by the Competent Authority
1	<p>The CA should ensure that the competence to grant exceptions, as referred to in Article 22 of Regulation (EC) No 834/2007, is not delegated to Control Bodies unless this is provided for in the specific conditions as laid down by the Commission in accordance with Article 22(3) of the same Regulation and as required by Article 27(7)(b) of the same Regulation.</p>	<p>Defra notes the view of the auditors in respect of the granting of powers to Control Bodies to administer certain exceptions under domestic legislation. Defra undertakes to review the UK implementing Statutory Instrument (i.e. The Organic Products Regulations 2009) to determine whether certain provisions should be amended to comply with Articles 22(3) and 27(7)(b) of Regulation (EC) No 834/2007.</p> <p>Where Defra concurs that provisions which delegate authority to the Control Bodies to grant exceptions do not comply with the provisions of Regulation 834/2007, it will take steps, as the UK Competent Authority, to issue an amending Statutory Instrument to rectify the position and will revise its guidance on these matters to the Control Bodies.</p>
2	<p>The CA should ensure that there are appropriate controls on the traceability of organic products at distribution and retail level, as required by Article 27(13) of Council Regulation (EC) No 834/2007.</p>	<p>Defra believes that, in general, there are adequate and appropriate controls in place to ensure the traceability of organic products. However, Defra concedes that the organic traceability system in the UK could be strengthened by increased liaison between Defra and Local Authority enforcement officers. This could help raise the profile of the organic supply chain and develop an improved intelligence led approach to identifying and tackling risks.</p> <p>Defra therefore undertakes to carry out a short project with Local Government Regulation to identify the best form of communications to achieve closer links leading to an increased profile for organic</p>

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		traceability and to look at the scope for reviewing current levels of labeling compliance activities. This project would be completed around the end of 2013 with a view to implementing any new systems deemed necessary in early 2014.
3	The CA should ensure that officials carrying out controls of labelling and traceability of organic products have received appropriate training, as required by Article 6 of Regulation (EC) No 882/2004.	<p>Defra notes the auditors' comments but is of the view that Article 6 of Regulation (EC) 882/2004 relates only to the Competent Authority's staff and not to other officials involved in the control process: the Article refers to <i>'all of its staff'</i>. Until recently, when staff changes occurred in the Competent Authority, one of Defra's staff was a national expert providing BTSF training on behalf of the European Commission. Two other staff members, still in post, have also undergone BTSF training. Defra will continue to ensure that all new staff recruited are given appropriate training.</p> <p>In terms of other officials, as part of the project referred to in response to recommendation 2 above, Defra will consider with Local Government Regulation the scope for such training as a component part of any existing training which is required to be undertaken by LA enforcement staff in relation to their wider role.</p>
4	The CA should ensure that officials carrying out controls of labelling and traceability of organic products avail of documented procedures and reporting arrangements, as required by Articles 8 and 9 of Regulation (EC) No 882/2004.	Defra will review the current procedures and reporting arrangements that are currently in place, and consider whether these can be improved to ensure that the requirements of Articles 8 and 9 of Regulation (EC) No 882/2004 are reflected. This review will form part of the project referred

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		to in response to recommendation 3 above.
5	The CA should ensure, once procedures for official controls of labelling and traceability of organic products are in place, that the requirement for internal, or external audits, as required by Article 4 of Regulation (EC) No 882/2004, is addressed.	Following the review outlined above and any subsequent implementation of procedures for official controls of labeling and traceability, Defra will organize an internal audit of the control system. This is likely to be in early-mid 2014, depending on the extent of the outcomes of the review and subject to auditors' commitments.
6	The CA should ensure that inspections or audits of all Control Bodies operating in the UK are organised as required by Article 27(8) of Regulation (EC) No 834/2007.	Defra undertakes to liaise with the Irish authorities and UKAS to ensure that any Eire based Control Bodies which are carrying out certification functions in the UK are captured as part of the INAB accreditation assessment process. If necessary and where INAB is carrying out witness assessments on UK soil, Defra will consider if it is required that such assessments are conducted by UKAS as the UK accreditation authority. As part of this, Defra will have regard to relevant requirements of EU cross-frontier legislation for accreditation EU Reg.765/2008
7	The CA should ensure that Control Bodies are certifying operators on the basis of all the requirements of Regulations (EC) No 834/2007 and 889/2008 and that the documentary evidence provided to the operator is issued on the basis of compliance with these Regulations, as set out in Annex XII of 889/2008.	Defra disagrees with the suggestion that Control Bodies are not certifying operators on the basis of all the requirements of Council Regulation 834/2007 and Commission Regulation 889/2008. Defra is not aware of any evidence which suggests that Control Bodies exempt operators from any requirement of the Regulations, nor has it been provided with information to suggest that provisions of EU legislation are being over-looked. UKAS accredits Control Bodies in respect of their ability to carry out delegated functions under the relevant EU Regulations and the annual audit carried out of each of the Control

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		<p>Bodies seeks to ensure that all of the provisions of the Regulations are being met.</p> <p>However, Defra accepts that individual Control Bodies do not use consistent or uniform terminology in the documentary evidence they issue to operators. Defra believes this is acceptable provided the terminology used is easily understood by the parties involved, and that all Control Bodies certify to at least the EU minimum standard. Defra allows Control Bodies a degree of autonomy to issue additional documentation if the purpose is to show compliance with their own private standards, i.e. standards which meet the requirements of EU legislation and in addition require more stringent criteria to be met. Defra believes this practice is not unique to the UK and understands that the European Commission is looking at the harmonization of documentary evidence across the EU. Defra will be guided by the outcome of the Commission’s deliberations.</p>
8	<p>The CA should ensure that a list of operators and their documentary evidence (certificates of compliance) is published, as required by Article 92a of Regulation (EC) No 889/2008.</p>	<p>Defra has been working with the Control Bodies over a number of months to identify a process which will enable this requirement to be fully met and provide effective contemporaneous information. Defra is in the process of appointing a suitable website service provider to manage and maintain a website with a real time list of operators and their documentary evidence. It is expected that such a system should be in place toward the end of autumn 2013.</p>

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9	<p>The CA should ensure that Control Bodies adopt a consistent approach regarding risk based controls as required by Article 3(1) of Regulation (EC) No 882/2004, and unannounced checks as required by Article 65(4) of Commission Regulation (EC) No 889/2008 and Article 3(2) of Regulation (EC) No 882/2004 which indicates that official controls shall be carried out without prior warning, except in cases such as audits where prior notification of the feed or food business operator is necessary.</p>	<p>Defra has been engaged in discussions with Control Bodies regarding announced and unannounced visits with the aim of adopting a consistent approach in the UK. The discussions are expected to conclude very shortly. Defra provided the auditors with a draft version of its proposed guidance which clearly indicated that unannounced visits should take place without prior warning.</p>
10	<p>The CA should ensure that if the results of Control Bodies' controls indicate non-compliance or point to the likelihood of non-compliance, they immediately inform the CA as required by Article 27(5)(d) of Regulation (EC) No 834/2007.</p>	<p>Defra notes the comments of the auditors on the effective operation of Article 27(5)(d) of regulation (EC) No 834/2007. Defra will look to put in place with Control Bodies a requirement that they should immediately notify Defra, as the UK Competent Authority, of any cases, or likely cases, of non-compliance resulting from their control activity. This mechanism should be in place by the autumn. It will build on the other requirement in 27(5)(d), which is met, that the Control Bodies communicate the results of the controls carried out on a regular basis.</p>
11	<p>The CA should ensure that the seed database provides the dates when seeds are available, as required by Article 51 1 (e) of Regulation (EC) No 889/2008.</p>	<p>The Organic X Seeds website, the site hosting the seed database, is administered by FiBL for several different Member States. Therefore, Soil Association (Charity), the body appointed by Defra and notified to the Commission and the other Member States as the “manager of the database” does not have direct control over the website.</p> <p>The seeds listed on the database are colour-coded to enable people with authorised access to the database to confirm seed availability or non-</p>

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		<p>availability. Seeds listed with a green rectangular symbol denote availability and seeds with a red rectangular symbol signify non-availability. There is also a history facility on the site which lists dates of availability for previous years.</p> <p>The fact that colour-coded seed listings on site denote their ‘real time’ status, and that the history facility displays dates of availability goes part way toward satisfying the requirements of Article 51(1)(e) of Regulation 889/2008. However, Defra notes that this does not satisfy the requirement that the database contain information setting out ‘the date from which the seed or seed potatoes will be available’. Defra would argue that this appears to require cross-EU State agreement and liaison with FiBL for a change to the database which would allow such dates to be added. Defra would consider the merits of any suggested change.</p>