

Chamber of Deputies  
Grand Duchy of Luxembourg

Luxembourg, 2 July 2013

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Mr José Manuel Barroso  
President of the European  
Commission  
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**Re: COM(2013) 265:** Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...]/2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

- Reasoned opinion by the Chamber of Deputies of the Grand Duchy of Luxembourg

Please find enclosed a resolution adopted by the Chamber of Deputies of the Grand Duchy of Luxembourg at its public sitting of 2 July 2013. This resolution is based on a reasoned opinion concerning compliance with the subsidiarity principle.

By adopting this resolution, the Chamber of Deputies has endorsed the position adopted by the the Committee on Agriculture, Wine-growing and Rural Development, which was asked for its view on the abovementioned proposal for a Regulation.

[complimentary close]

Laurent Mosar

President of the Chamber of Deputies

## RESOLUTION

The Chamber of Deputies

- having regard to Rule 168 of the Rules of Procedure of the Chamber of Deputies;
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- whereas the Committee on Agriculture, Wine-growing and Rural Development has been consulted concerning a proposal, drawn up by the European Commission, for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation), (COM(2013) 265), under the arrangements for monitoring compliance with the principles of subsidiarity and proportionality;
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- whereas, at its meeting of 27 June 2013, the Committee on Agriculture, Wine-growing and Rural Development unanimously decided to adopt a reasoned opinion on the above-mentioned legislative proposal;
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has decided to adopt that reasoned opinion of the Committee on Agriculture, Wine-growing and Rural Development , which reads as follows:

### *General remarks*

The Committee on Agriculture, Wine-growing and Rural Development has examined the proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation), hereinafter referred to as 'the proposal COM(2013) 265'.

The proposal COM(2013) 265 is related to the other new proposals COM(2013)260, 262 and 267 This package of measures cannot possibly be presented as an administrative simplification, as the Commission would have it. On the contrary, these new requirements will unavoidably lead to more bureaucracy in the vast field of official controls on health and safety standards for the whole agri-food chain.

Given its knowledge about the way in which administrations in a Member State the size of the Luxembourg operate, the Committee on Agriculture, Wine-growing and

Rural Development considers that these new requirements will push these administrations to the limits of their capacity.

However, in the light of the size of this package of measures, some 1700 pages, and the time constraints - the response time expires on 8 July 2013 - the Committee on Agriculture, Wine-growing and Rural Development has deliberately limited its opinion to the financial aspect of these controls, namely Chapter VI of Title II of the proposal COM(2013) 265.

The Committee on Agriculture, Wine-growing and Rural Development is concerned that the proposal COM(2013) 265 presents a serious threat to the economic health of a number of farming sectors in Luxembourg, especially the indigenous production of seeds and other plant propagating material.

*Examination of Chapter VI 'Financing of official controls and other official activities' (Articles 76 to 85) of Title II 'Official controls and other official activities in Member States' of the proposal COM(2013) 265 with regard to the principles of subsidiarity and proportionality.'*

The provisions on the financing of the costs of the controls in different sectors stipulate that these costs be covered wholly by charges and fees paid by the operators subject to the controls. However, this requirement, while no doubt well intentioned, could, in smaller Member States, threaten the existence of operators in some of the sectors targeted as they are few in number and are unable to take advantage of economies of scale.

It is true that the European Commission has allowed for exceptions for micro-enterprises with a turnover below two million euros and employing under 10 persons - a welcome principle that the Committee on Agriculture, Wine-growing and Rural Development gives its full support.

However, this derogation does not solve the difficulties that small and medium-sized enterprises will encounter in Luxembourg if they exceed this limit to a slight extent and are consequently faced with fees, which, in some cases, could be exorbitant in relation to their turnover.

An initial assessment of the situation in Luxembourg shows that, in particular, its plant health and propagating material sector will bear the costs of proposal COM(2013) 265. The obligation imposed on the State to make the few enterprises existing in Luxembourg pay the costs for official controls will put an end to all economic activity in this sector.

However, there is political will in Luxembourg, as far as possible, to continue to produce seeds, plants and other plant propagating material in the country and in the EU as a whole.

The Committee on Agriculture, Wine-growing and Rural Development would point out that this activity, which is essential to the sector overall and to food safety, also contributes to rural development, as advocated by the Common Agricultural Policy, regional balance, autonomy and food independence.

The highly strategic propagating material and plant health sector must not become the prerogative of large industrial groups but must remain accessible to small enterprises as well. This entire policy could be jeopardised by the financial measures in question.

Finally, for obvious food security reasons, the Committee on Agriculture, Wine-growing and Rural Development would emphasise that the production of plant propagation material, in particular seeds and plants for agriculture, must not be concentrated solely in a few regions but, in order to avoid the pitfalls of unpredictable climate conditions, policies should ensure that this form of economic activity is distributed as widely as possible throughout the European Union.

The Committee on Agriculture, Wine-growing and Rural Development notes that the European Commission, in its proposal for a Regulation on the production and making available on the market of plant reproductive material (plant reproductive material regulation) (COM(2013)), has stipulated areas in which producers can carry out their own checks. However, it would point out that small businesses have neither the skills nor the resources to carry out such checks, especially when it involves performing them at a reasonable cost.

The Parliamentary Committee has no wish to argue for an appropriate increase in the abovementioned thresholds, because it is duty bound to note that, by these measures regulating the financing of official controls in the Member States, the Commission is violating the principles of subsidiarity and proportionality enshrined in Article 5 of the Treaty on the European Union.

Article 5(3) provides that 'in areas which do not fall within its exclusive competence, the Union is to act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level', whereas Article 5(4) states, under the principle of proportionality, that 'the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties'.

Compliance with the subsidiarity principle would allow responses to be found that are relevant to the specific national context in the field and would enable EU regulation of these official checks that would prevent disproportionate costs incurred in certain sectors as a result of inability to benefit from economies of scale from jeopardising an entire industry.

The Committee on Agriculture, Wine-growing and Rural Development therefore insists that the proposal COM(2013) 265 leave a free choice to the Member States concerning the calculation of control charges.

### *Conclusion*

This examination of the compliance of the proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation) with the principles of proportionality and subsidiarity has shown that some of its provisions are in breach of both the principle of subsidiarity and the principle of proportionality.

As it currently stands, the above proposal for a Regulation is, as regards the points

discussed above, incompatible with Article 5 of the Treaty on European Union.

Resolution adopted by the Chamber of Deputies at its public sitting of Tuesday 2 July 2013

The Secretary-General  
Claude Frieseisen

The President  
Laurent Mosar