



Brussels, 18th of October 2013

**Revision of the EU system on official controls for food and feed
COCERAL and EUROMALT position**

COCERAL, the European association representing the trade in cereals, rice, feedstuffs, oilseeds, olive oil, oils and fats and agrosupply, and EUROMALT, the European association representing the malting industry, welcome the Commission's intention to harmonize, modernize and sharpen the EU system of official control along the agri-food chain by simplifying and modernizing its regularity framework.

Food and feed safety is of utmost importance to COCERAL and EUROMALT. COCERAL and EUROMALT members take very seriously their primary responsibility of ensuring that goods they place on the EU market are safe and in compliance with the EU law. As part of this commitment, EU traders and maltsters have in place quality and control management system for many years.

With this aim, COCERAL and EUROMALT would like to bring its perceptive to the current discussion on the different principles in the Commission's proposal of revising the EU system on official controls for food and feed.

Executive Summary

1. Official controls should be entirely financed by the public sector. These are performed in the interest of the public and its implementation is of primary responsibility of competent authorities. However, if the full costs transfer to the private sector is confirmed, the related fees should be calculated and allocated in a manner which is simple and possible to apply and administer to ensure a fair, consistent as well as effective system and treatment of all operators along the food and feed supply chain.
2. Control authorities need to adhere to the principles of transparency and reporting of information within the organization and performance of official controls. However, information undermining the commercial interest and credibility of the business operators should not be made publicly available.
3. The Commission's empowerment to adapt the general rules to the specific characteristics of the single sectors, such as the trading of goods in bulk, is important and thus should be supported and maintained within the proposal.
4. The principle of risk-based controls needs to remain an integral part of the official control system. A more effective and efficient official controls system will be ensured by a wider and deeper involvement of the private sector in its implementation.
5. Business operators need to be fully cooperative with control authorities by providing information and copies of documents directly linked to the accomplishment of official controls, However, a free access to operators' IT system should not be granted to control authorities. This should be allowed only in exceptional cases on the basis of a known risk as operators store in their IT system high sensitive commercial information.

1. Financing of official controls

COCERAL and EUROMALT are concerned about the new concept proposed by the Commission of transferring the full costs of official controls to the private sector (*ref. chapter VI*).

Official controls systems financed with public funds should be preferable as they provide competent authorities the necessary incentives to conduct cost-effective official controls and guarantee a certain level of independence in how official controls are carried out. To date, the approach employed in most EU Member States has been to finance most public inspection services by way of generic taxation. This approach helped to ensure independence of National governments from the private sector as a direct link between the public and private sector was not made. Moreover, the incentive of control authorities to make the official control system efficient and effective may be awakened by the transferring of public inspections costs from citizens to the private sector. The quality, time-efficiency and cost-effectiveness in performing official controls are of paramount importance for business operators and the community in general. Potential inefficiencies by control authorities should, therefore, be avoided as much as possible as they would generate additional costs and delays in delivering of the goods.

In addition, the transferring of the full costs of the official controls to the private sector is not justifiable. The EU law recognises that the responsibilities in ensuring the food and feed safety of the goods have to be shared between competent authorities and the business operators (*ref. to articles 4 and 8*). As part of this shared responsibility, business operators, in their daily operations, have already in place quality and control management system. Competent authorities, therefore, need to remain in charge of the funding of the official control system as part of this shared responsibility.

However, if this new concept of full costs transfer to the private sector is confirmed, COCERAL and EUROMALT believe that its underpinning rules should be reviewed in a manner to ensure a fair, consistent and effective alleging of costs between all business operators. The proposed fees structure and rules, bonus and malus system in particular (*ref. article 80*), could potentially lead to complexity when applied by Member States in practice. Its implementation may generate unnecessary administrative and financial burdens to both private and public sectors. The proposed financing system may also be flawed as it could encourage overzealous controls and abuses as regards the costs levied to business operators. The fees exemption granted to microenterprises seems to be unfounded and unfair (*ref. article 82*). Microenterprises benefit from the official inspections in the same way as the medium and large sized enterprises. The related inspections costs should be shared among all enterprises on a fair manner proportionate to size of their business.

Hopefully a simpler system to be set up and implemented by Member States, equitable to all could be based on establishing fees at a flat-rate on the basis of the overall costs of official controls borne by the competent authorities over a given period of time (*ref. to article 79*). The fees should be collected from all operators, microenterprises included, irrespective of the number of inspections, record of compliance attributed to the single operator (*ref. to articles 80 and 82*). Fees calculated by following these principles will have negligible impact on the economic and financial well-being of business operators along the food and feed supply chain.

2. Transparency and reporting of information on official controls

COCERAL and EUROMALT support the principle of transparency which control authorities need to comply with in the organization and performance of official controls as well as the use of the financial resources collected for this exercise.

The form and types of information to be included in these publications should be consistent throughout the EU. This is essential to ensure a level playing field across the EU and sectors along the agri-food supply chain. It is also important that operators are provided with systematic, timely and accurate information as regards all controls performed in their premises.

However, it is imperative that information to be made publicly accessible does not undermine the commercial interest of the single business operator and not covered by professional confidentiality. The publication of individual operators' information, as its ranking (*ref. article 10, paragraph 3*) and outcome of official controls (*ref. article 8, paragraph 3*), is of doubtful utility to the EU community in general and justifications for this are lacking. COCERAL and EUROMALT are concerned that these provisions would lead to a "name and shame" system of possible detriment of the credibility of the business operators. Information on companies' details should not be made publicly available unless the companies concerned agree to their disclosure. Moreover, perfectly appropriate legal mechanisms to persecute and punish non-compliance with the EU food and feed law are already in place in the Member States.

3. Subsidiarity and proportionality principles

COCERAL and EUROMALT welcome the Commission's intention to harmonize and enhance the system of official control along the agri-food supply chain and across the EU. A set of general rules would ensure a uniform and consistent implementation by control authorities and operators necessary for the well-functioning of the EU internal market.

The need of harmonization, however, does not override the operators' need of flexibility. **The Commission's empowerment to adapt the general rules to the specific characteristics of the single sectors, such as the trading of goods in bulk (*ref. article 75*), is important and thus, should be maintained within the proposal.** The trading of agriculture commodities is a peculiar sector. Therefore, it is of utmost importance to provide its operators with specific rules appropriate with the specificities and flexibilities required in the operations of collection, storage, trading and transport of cereals, oilseeds and protein crops. The right of the operator to apply for a second expert opinion (*ref. article 34*) is also of adamant importance for the agricultural sector. The latter should always be granted by competent authorities, if technically feasible and possible.

In light of the importance and high number of delegated acts related to our sectors, it is of vital importance that the private sector is appropriately consulted during the Commission's decision process.

4. Risk-based approach and cooperation among public and private sectors

COCERAL and EUROMALT fully endorse the principle of risk-based controls and calls for a better involvement of the private sector when defining the aspects related to its implementation. A more risk-based approach to the protection of health and more efficient control tools will ensure the effective application of the official controls system.

The proposal rightly provides for a diverse set of rules per category of goods and activities bearing different risk-profiles. It is crucial that this principle remains an integral part of the proposal as well as in the subsequent Commission's acts and control activities of national authorities.

COCERAL and EUROMALT believe that the proposal should take more into consideration the benefits resulting from a wider and deeper cooperation between business operators and control authorities.

The proposal should give more consideration to operators' past records of compliance and reliability of own controls (*ref. article 10*) in particular. This will increase the efficiency and effectiveness in terms of time, personnel and resources used for the performing of official controls. While the proposal mentions that operators' reliability should be taken into account in the setting of the controls frequency, the latter does not provide control authorities with specific provisions for its implementation. COCERAL and EUROMALT believe the proposal should foresee the development of specific guidelines in this respect.

5. Obligations for business operators

COCERAL and EUROMALT acknowledge the right of control authorities to request communication of documents in hard or electronic copy, which verification is directly linked to the accomplishment of their mission.

The Commission's proposal requires the operator to give access to the competent authority to its computerized information management system (*ref. article 14, paragraph 1, comma b*). **COCERAL and EUROMALT believe that this obligation should be reformulated and made more specific to those systems and electronic documents required to verify compliance with food and feed law requirements.** Operators store in their computerized information management system sensitive commercial information. The access to their own IT system should be allowed only in exceptional cases on the basis of a known risk. The granting of a general free access to IT systems and documents seems to be against the operators' fundamental right recognized by the EU law.

COCERAL and EUROMALT are concerned that this provision would lead to the coercive disclosure of operators' confidential information. **If this general provision is confirmed, COCERAL and EUROMALT will need to be appropriately consulted by the Commission as regards the implementing act foreseen for the establishment of the modalities for access by competent authorities to operators' information management system.**

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COCERAL is the European association representing trade in cereals, rice, feedstuffs oilseeds, olive oil, oils and fats and agrosupply trade. It represents the interest of the European collectors, traders, importers, exporters and port silo storekeepers of the above mentioned agricultural products. COCERAL's full members are **31 national associations in 19 countries**. With about **2700 companies** as part of COCERAL national members, the sector trades agricultural raw materials destined to the supply of the food and feed chains, as well as for technical and energy uses. COCERAL has an associated member in Switzerland.

EUROMALT is the EU malting industry association and represents the interests of the European malting barley processors and malt producers. Euromalt's members account for more than **60% of the world malt trade**: with over **190 facilities** in Europe, the sector provides around **28,000 direct employments**. Its members process **12 million tonnes of malting barley** of European origin to produce over **9 million tonnes of malt** for the brewing industry in the EU, for export to overseas brewers as well as the distilling and food industries. E.U. foreign earnings from malt exports are about 0.90 billion euros.