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COVER NOTE

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Subject:	Commission staff working document – Executive summary of the impact assessment accompanying the document 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 [Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material], and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

Delegations will find attached Commission document SWD(2013) 166 final.

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Brussels, 6.5.2013
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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

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 [*Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material*], and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

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1. PROBLEM DEFINITION

Background

The responsibility to enforce European Union (EU) agri-food chain legislation lies with Member States (MS), whose authorities monitor that relevant requirements are effectively implemented across the EU. In doing so, they verify that operators' activities and goods placed on the EU market (either EU produced or imported from third countries) comply with relevant agri-food chain standards and requirements. All businesses operators are subject to official controls irrespective of their size, depending on the risk different activities can pose to the safety of the agri-food chain. indeed, smaller businesses, including micro-enterprises, represent more than a half of the total number of operators in the majority of the MS and may conceal serious risks despite the reduced scale of their activities (as in the case of the recent E.Coli crisis).

Harmonised EU rules to govern control activities performed by MS are established in Regulation 882/2004 (hereafter 'the Regulation') with the aim of creating an integrated and uniform approach to official controls along the agri-food chain. The Regulation provides a general framework for official controls in the sectors of **feed and food law, animal health and animal welfare rules**, laying down rules governing both the **organisation** and the **financing** of such controls.

Despite the above integrated approach, for historical reasons controls for animal health purposes (both on domestic and imported goods) and controls on residues of veterinary medicines, remained regulated separately. Moreover, certain sectors pertaining to the agri-food chain were not included in the scope of the Regulation - i.e. **plant health, plant reproductive material (hereafter 'PRM'), animal by-**

products (hereafter 'ABP') - and specific sectoral regimes were developed for them.

The Regulation has introduced important improvements to the way competent authorities (CAs) organise and carry out official controls along the agri-food chain laying the foundations for a more integrated and horizontal approach. However, evidence gathered over the last five years (feedback from MS' CAs and stakeholders, and DG SANCO Food Veterinary Office (FVO) audits) has shown shortcomings stemming from the incomplete implementation/achievement of certain principles/objectives, and from the fact that the integrated approach to official controls is consolidated only partly.

The review of the Regulation is part of a package which also includes three other major reviews to modernise the animal health, plant health and PRM *acquis*[1]. Its aim is therefore to modernise and integrate the system of official controls in a manner that also consistently accompanies the upgrade of EU policies in these sectors.

Problem identification

Although MS ensure a good level of implementation of official controls across the agri-food chain, and progress can be recorded in the use of the enforcement tools established by the Regulation, shortcomings have been identified stemming from on the one hand, **the design of the official controls framework**, on the other hand, **uncertainties as to the availability of sufficient resources to adequately finance official controls**.

Design of the official controls framework

(1) The Regulation's main aim of developing an integrated and uniform approach to official controls is not fully met: EU official controls rules for sectors outside its scope are not fully aligned to the principles and requirements set out in the Regulation. This has resulted in **inconsistencies** and **legal gaps** as those sectors lack important provisions ensuring accountability, soundness and effectiveness of enforcement activities (see examples pp. 7-8 of the report). Control authorities thus operate on the basis of different approaches and under different conditions depending on the specific agri-food chain rules they are called upon to enforce, without differences being justified.

(2) The Regulation requires official controls to be **risk-based** in order to maximise the efficiency of control activities directed at protecting health. At present, there are two areas such an approach is still not used, notably official controls carried out at the **border on certain goods coming from third countries**, and official controls **on residues of veterinary medicines** (see examples pp. 8-9 of the report). Main reason for this is that such controls are currently prescribed by EU rules, pre-existing the Regulation and not repealed by it, which do not establish appropriate mechanisms to take into account the actual risk a given good, business activity or third country might present. This results in resources

[1] The Impact Assessments accompanying the reviews of Animal Health and Plant Health already received positive opinions from the Impact Assessment Board. The Impact Assessment accompanying the review of Plant reproductive material is ongoing.

being allocated – in all MS - to controls that are not justified by the risk and in a consequent significant waste of public resources (time and money) that could be better used where risks are higher. The inefficient use of resources also results in unnecessary burdens on operators (time, staff, equipment and facilities mobilised to allow controls).

(3) Unnecessary **administrative burdens** are placed on MS' CAs. This is considered to be the case whereby MS are obliged to transmit to the Commission for approval, annual updates to their veterinary residues monitoring plans. In the same area, also redundant are the specific reporting obligations, as they duplicate the general reporting requirement in the Regulation. These burdens results from obligations on MS laid down in Directive 96/23/EC.

(4) In addition, while requiring official laboratories to be accredited in accordance with EN ISO/IEC 17025, the Regulation does not allow temporary arrangements for emergencies or cases where laboratories have to use a new method not yet included in the accreditation (see examples p. 10 of the report). Similarly, no flexibility is foreseen for small laboratories carrying out extremely basic types of tests (see examples p. 10 of the report).

(5) The Regulation includes some important principles and mechanisms which are currently unevenly enforced by MS' CAs or applied according to divergent practices among MS. In particular, calls for administrative cooperation i) between MS for cross-border enforcement action, and ii) between sanitary authorities and customs services. However, MS are not making full use of this tool and/or they encounter difficulties in understanding the conditions for its application (see examples p. 10 of the report). Another requirement which is open to divergent practices in MS is the obligation for MS' CAs to ensure a 'high level of transparency' of control activities with regards to operators and the public at large. This is mainly due to the fact that the Regulation foresees no comprehensive guidance on how cooperation should take place (timing, information to be exchanged, etc.) and what information should be made available to the public. In addition, the Commission is not empowered to lay down further details and uniform implementation modalities.

Financing of official controls

(1) MS are requested to ensure that adequate financial resources are available for official controls. However, information from MS and FVO audits indicates **widespread difficulties** in the MS to appropriately resource control services. Annex XV (p. 132 of the report) lists a number of significant cases where, during the last 4 years, EU inspectors have reported that the reason for identified shortcomings in control activities or for unsatisfactory or insufficient level of controls is attributed to the **lack or shortage of resources** (see examples p. 11 of the report). Such difficulties are exacerbated by the on-going economic and financial crisis and there is a risk that further pressure on public finances and on funds made available for official controls might adversely affect MS' capacity to deliver efficient official controls and, consequently, the level of protection offered by EU law.

To reduce the dependency of the financing of controls on public finances, the Regulation identifies a number of control activities (mainly on meat, milk, fishery production, and on controls carried out at EU borders) for which MS shall collect a **fee from operators *(mandatory fee)* to recover control costs.** For other control activities, MS can choose whether to charge a fee on operators or not.

However, mandatory fees as currently regulated do not enable CA to recover all their costs and thus to ensure a stable flux of resources to finance the performance of controls.

In addition, a significant variance in the amount each MS recovers for official control activities has resulted in a perception amongst businesses, across the EU, that the cost of official control activities is not evenly or fairly spread out amongst agri-food chain operators in the EU. Operators also complain about the fact that the current system does not sufficiently reward compliant business behaviour (and call for a stronger *bonus malus* approach).

(2) Where operators are required to pay mandatory fees, the impact of such fees may be greater on **micro-enterprises** by reason of their lower turnover/throughput. Although there is currently no evidence to suggest that the mandatory fees charged on the basis of the current framework have, in actual fact, given rise to adverse or disproportionate effects on micro-enterprises, the need to enable control authorities to recover costs so as to ensure sufficient resources for official controls should be balanced and weighted against the need to lower the burden on very small businesses, in line with the new Commission policy on *"Minimizing regulatory burden for SMEs - Adapting EU regulation to the needs of micro-enterprises"*[2]. According to this policy micro-enterprises should in principle be excluded from regulatory burdens, unless the necessity and proportionality of their being covered can be demonstrated.

2. ANALYSIS OF SUBSIDIARITY

The existence of a harmonised EU legislative framework to govern the organisation and performance of official controls along the agri-food chain is necessary to ensure the uniform implementation of agri-food chain rules across the EU and the smooth functioning of the internal market. This rationale, which is still valid, underpins the existing rules on official controls. As the problems identified by this review are linked to the current design of the EU legislative framework, its reform cannot be achieved by MS acting alone. The intervention of the European legislator is required.

The added value of a single, uniform set of EU rules to govern official controls lies in the fact that it offers national enforcers (and their operators) a framework within which CAs can rely on enforcement activities carried out in another MS, and on the reproducibility and scientific and technical soundness of control results. It also ensures that EU agri-food chain standards necessary for the functioning of the single market are applied uniformly and consistently in the different MS and sectors.

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[2] COM(2011) 803.

An efficient EU official control system is important for both EU exports and imports. The EU's ability to export towards third countries relies on the reputation of the high production standards and added value that the EU goods can prove to have compared to the ones produced outside Europe. This can only be achieved by a reliable and trusted official controls system which ensures that the EU agri-food chain safety and quality standards are consistently enforced and corresponding expectations from trade partners met. As regards imports, it is essential that all food on the EU market is safe. Controls perfomed by the MS CAs on goods arriving from third countries ensure that the latter offer adequate guarantess that they meet equivalent safety levels.

As to the financing of controls, common EU rules ensure that CAs can count on a reliable flux of resources to maintain the control effort at a level justified by the risks and by enforcement needs (e.g. level of non-compliance). Provisions on fees in particular ensure that business concerned with the handling of feed/food, which benefit directly from efficiently performed controls, participate towards the financing of the latter, so as to minimise the dependency of control funding on public finances. Common EU rules are necessary also to prevent discriminatory treatment between operators located in a MS where the user-pays rule (and thus fees) applies and those located in a MS where this is not the case. Only common EU rules can ensure a uniform approach to pursue this objective.

EU action should not go beyond what is necessary to achieve the objectives set. The present exercise has looked at a broad range of options, including that of harmonising fee levels across MS, and that of de-regulating the matter. The analysis sought to design the most proportionate solution to ensure a sufficient and steady flux of dedicated resources for official controls, whilst leaving MS the time and flexibility necessary to cater for their internal arrangements and the specificities of their business population.

3. POLICY OBJECTIVES

The general objectives (broadly coinciding with the Treaty objectives) are:

1. contribute to promoting the smooth functioning of the internal market;

2. maintain a high level of human, animal and plant health protection and animal welfare and prevent that this is undermined by potential non-implementation of EU legislation;

3. ensure proper and uniform implementation of EU legislation.

The specific objectives are set with the aim of eliminating the specific obstacles identified during the analysis which prevent or hamper the achievement of the general objectives in this area.

Table 1: specific objectives and their link with the problems

	Problem at stake	Specific objectives
Design of official controls' framework	Inconsistencies, gaps and overlaps in control requirements	Ensure a comprehensive and consistent approach to official controls along the agri-food chain
	Inconsistent implementation of risk based approach	Allow for an efficient use of national control resources
	Administrative burden and disproportionate requirements	Reduce administrative burden and remove unnecessary requirements
	Uneven enforcement of cooperation and transparency requirements	Improve transparency
		Foster cooperation between MS to improve official control delivery
Financing of official controls	Difficulties and inequities in financing official controls activities	- Ensure the availability of adequate resources - Ensure equity and fairness in the financing of official controls - Improve transparency of the system of financing of official controls

4. POLICY OPTIONS

The analysis of options available was carried out in two stages:

(1) first, the potential impact of two possible changes to the status quo, specifically aiming at deregulating the matter of the financing of official controls (option 1A) and of exempting micro-enterprises from the fees system (option 1B) were considered[3];

(2) the outcome of the analysis under 1 was then used to design options 2 to 4, which combine the following elements: i) expand the scope of the Regulation to food chain sectors currently outside its scope (i.e. plant health, PRM and ABP), ii) improve and simplify the legislative framework, iii) ensure full cost recovery through fees, iv) expand the list of control activities for which the collection of a fee from operators is obligatory.

Baseline: the integration of the system of official controls along the agri-food chain is partial, some agri-food chain sectors being outside the scope of the Regulation. Official controls carried out at EU external borders on certain goods arriving from third countries, and official controls on residues of veterinary medicines are not aligned to the risk based approach. This will continue to generate avoidable costs (for rigidly prescribed, non risk-based controls). Inconsistency and inefficiencies in the

[3] Although in theory both Options 1A and 1B could be combined with other elements of Options 2 to 4, they are presented and assessed individually given the significance of the changes they purport to introduce. Both would, in fact, substantially alter the current framework as regards the financing of national control systems and call into question established principles thereof. Moreover, the combination of Options 1A and 1B with other elements of Options 2-4 would not result in significant trade-offs and would therefore not modify the cost/benefit analysis of Options 2-4 to an appreciable extent.

deployment of efforts by, and in cooperation between, national authorities will derive from the lack of uniform guidance on how to implement administrative cooperation and deliver a high level of transparency. No derogation is foreseen from the requirement of accrediting official laboratories.

The collection of fees is mandatory for a limited number of control activities. MS can choose to charge a standard EU fee fixed in the Regulation, which does not correspond to the actual cost of the control. This results in potential under-resourcing, and in the risk that the capacity of the control system to prevent and contain health risks along the agri-food chain is undermined.

Option 1A – Repeal Union rules on control fees*:* each MS would decide on the approach it follows as regards the funding of official control activities, provided that it ensures an appropriate level of resources for controls. It would require **repeal** of **Articles 27-29** of the Regulation and in particular of the mandatory collection of fees in certain areas.

Option 1B – Mandatory exemption of micro-enterprises from the application of fees: this option, selected in view of the Commission's continued efforts to promote the competitiveness of micro-enterprises, would require the breadth of operators upon which mandatory fees are levied to be appositely restricted to exclude micro-enterprises.

Option 2 – Streamline: improve the legal framework by streamlining the rules applicable to **controls** carried out at the EU external borders on **certain goods from third countries** and to controls on **residues of veterinary medicines**, **aligning** them to the **risk-based approach**. The possibility of setting control coordination mechanisms with other national authorities (at borders and elsewhere) so as to use **all potential operational synergies** would be introduced. Provisions on official **laboratories** would be **simplified** providing derogations were appropriate. Redundant/obsolete pre-existing **legislation** would be **repealed** so that **overlaps and administrative burdens** would be removed. The **Commission** would be **empowered** to specify, by delegated/implementing acts, the modalities of certain requirements for which more detailed rules are needed (e.g. **administrative cooperation** and **transparency**).

Where already required, mandatory fees would be maintained and current obstacles to full cost recovery (e.g. EU harmonised **standard fees**) would be **eliminated**. The possibility for MS to **exempt micro-enterprise**s would be provided. A transitional period of **2 years** would be provided for the application of a full cost recovery system.

Option 3 – Streamline + Integrate: additional to Option 2, Option 3 would **widen the scope of the Regulation** to cover sectors currently excluded (plant health, PRM and ABP) and complete the 'integration' of official controls. As regards the financing of official controls, official controls linked to **plant passport** obligations, and to the

certification in the field of PRM would be added to the list of activities covered by **mandatory fees**[4].

Option 4 – Streamline + Integrate + Broader cost recovery: additional to Option 3, Option 4 would **expand the list of mandatory inspection fees** to all controls carried out by feed and food business for which a **registration** requirement is established in accordance with **food and feed safety rules**. A transition period of **3 years** would be provided for the application of a full cost recovery system with the expanded scope.

Table 2: Summary of the options included in the analysis

	Scope of the Regulation	Legislative framework	Cost recovery	Scope of mandatory fees
Baseline	partial (plant health, PRM, ABP out)	deficiencies and shortcomings	partial	partial (meat, milk, fishery, imports)
Option 1A	status quo	status quo	No (deregulation)	/
Option 1B	status quo	status quo	status quo	exemption for micro-enterprises
Option 2	status quo	improved	full	status quo
Option 3	expand to plant health and PRM	improved	full	ADD plant health and PRM
Option 4	expand to plant health and PRM	improved	full	ALL registered food and feed operators

5. ASSESSMENT OF IMPACTS

The IA analyses the likely social, economic and environmental impacts – be they direct or indirect – of different policy options. Each option has been assessed against the theoretical baseline of 'do nothing' and therefore the impacts outlined are additional to the current status quo. Economic impacts are assessed through the following criteria: *competitiveness*, *innovation*, *sustainability, simplification*, and *administrative burden reduction.* Equally important for the analysis are social impacts (*safety* in particular, but also *accountability*). The assessment of each option in terms of environmental impacts and of impacts on employment rates has not identified significant impacts (either negative or positive).

Option 1A – Repeal Union rules on control fees

The repeal of the existing EU framework on inspection fees is likely to result in an increased variance of national approaches, and in possible cuts in resources allocated to controls.

Although the impact on the level of resources actually deployed would depend on the policy choices that each MS would make and so cannot be fully predicted and analysed, the problems identified in relation to the current fees regime, such as the failure to ensure proper cost recovery, and the dependency of controls performance

[4] This would be done to account for the preferred option selected in the context of the Impact Assessments accompanying the review of the Plant Health and PRM regimes.

on budgetary policies, are unlikely to be solved. Given the current economic crisis it is possible that problems could worsen if MS decisions result in a decrease of resources made available for the operation of national control systems. This would in turn result in increased difficulties by CAs in maintaining an effective oversight of compliance with safety requirements along the agri-food chain and in preventing and resolving large scale crises.

The repeal of the EU framework would result in a more complex legislative landscape as differences in national rules on the financing of controls are likely to increase. This might result in distortions of competition, if operators in one MS are charged for controls while competitors in another MS are not, with adverse impacts on the single market.

Option 1B – Mandatory exemption of micro-enterprises from the application of fees

The mandatory exemption of micro-enterprises from the application of fees, while reducing the financial burden on micro-enterprises, would undermine the objective of ensuring the sustainability of the control system, and through it the safety of the agri-food chain.

In 16 of the 23 MS for which data is available, micro-enterprises represent more than half of all businesses, and in 9 such States (AT, BE, CY, FI, IT, NL, PL, SE, SI) the percentage of micro-enterprises rises to two thirds (or more) of all business operators. Where micro-enterprises represent an overwhelming majority of businesses subject to fees, exempting them from the payment of the latter will have a severe negative impact on the proportion of costs recovered by CA. The objective of ensuring a sustainable financing of controls via full cost recovery would be undermined, as controls will still need to be carried out on all operators at a frequency dictated by the risk.

While the CAs' loss in revenue represented by the exemption could be compensated by transfers from the general budget, this would again create a strong dependency of the control action from public resources and thus create a situation – in particular in times of crisis and budget restrictions - of financial uncertainty which cannot be reconciled with the objective of ensuring consistent, efficient and risk commensurate control activities across the agri-food chain. Lower revenue income for competent authorities would result in fewer controls, a higher probability of non compliance with EU agri-food chain legislation, and the safety of the agri-food chain being jeopardised by an increased risk of food crises.

On the other hand, should the loss of revenue be compensated by higher fees charged on larger businesses, the mandatory exemption of micro-enterprises from the fees would result in the unfair treatment of larger operators and in possible distortions of competition.

Based on the above analysis, fully supported by CAs and industry representatives consulted, it is considered that an automatic exemption of micro-enterprises (or SME's in general) from the application of fees has the potential to undermine the objective of ensuring the sustainability of national control systems and to create

distortions of competition[5]. Therefore, in the options below, the exemption of micro-enterprises from the application of fees is replaced by a mechanism which responds to such shortcomings.

Option 2 – Streamline

Increased efficiency of the risk based use of control resources and mobilisation of dedicated financial resources reducing pressure on national finances allow progress towards the primary objective of maintaining efficient controls and safety of the agri-food chain. MS may partly or fully exempt from fees micro-enterprises, conforming to State Aid rules.

Option 2 would allow for the full implementation of the **risk based approach** to official controls in sectors where MS CAs are currently not allowed to adjust their control efforts to the actual risks (i.e. official controls carried out at EU borders on certain goods from third counties, and official controls on residues of veterinary medicines). This would result in a better allocation of control resources and, thus, in a more efficient control system. Moreover, enabling national authorities to focus their control efforts where non compliances and risks are higher would minimise the burden of official controls on compliant businesses and have, therefore, a positive impact on their competitiveness.

However, the benefits in terms of increased efficiency and competitiveness would be only partial because plant health, PRM and ABP are not included within the scope of the Regulation. In fact, the best allocation of control resources can only be achieved by ensuring that the risk prioritisation is carried out by CAs across all sectors of the agri-food chain, including those above. This is prevented by the current fragmentation of official controls legislation.

As regards the financing of official controls, requiring MS to fully recover the costs of controls when mandatory fees are used would mobilise a steadier flux of financial resources collected through such fees, thus reducing the pressure on national budgets.

In the majority of MS, control costs are only partly recovered through fees, the recovery rate ranging from 20% to more than 80%, and 8 MS recovering all costs. Thus, introducing full cost recovery would see in some cases an additional part of the costs of controls being transferred to, and distributed amongst, agri-food chain operators. The increase in the level of mandatory fees, which would vary depending on the current recovery rate, is expected not to represent a substantial additional burden for operators, even in those sectors where the cost of controls impacts most on the operators' overall production costs, which is meat inspection (using the figures in box 6, p. 31 , we can estimate that, depending on the current percentage of recovery of costs by Member States, additional fees corresponding to approximately 0.2% - 0.8% of the annual production value of a typical operator would be charged);

[5] The conclusion also holds true in cases where mandatory fees are imposed on all registered food and feed operators (Option 4) as the proportion of micro-enterprises in the different areas of the agri-food chain is always very significant (data published in April 2012 by Fooddrinkeurope shows that 79% of operators in the food and drink industry are micro-enterprises).

in return, this would guarantee approximately €0.9bn – 3.4bn of new funds/year for official controls across the MS[6].

By eliminating the use of EU standard fees and requiring all fees to be cost-based, Option 2 would create a level playing field for all operators charged with mandatory fees. New provisions will ensure that the financing mechanism of controls can be used by MS to reward well-performing, low risk businesses, also when flat rate fees are applied to all operators, irrespective of whether they are actually inspected during the reference period (by charging them with a lower rate fee than the one applied on non compliant operators).

The requirement to calculate all fees on the basis of costs is expected to generate limited additional administrative burdens upon those MS which do not currently establish fees on the basis of costs incurred as changes to their administrative procedures may be required. Although the majority of MS derives at least part of the mandatory fees from actual costs, a fully cost-based system might require existing costing systems to be adjusted. Additional costs are **expected to be affordable by public budgets** (according to estimations provided by 2 MS they would range **from a few thousand € /year** in FTE time spent to collect and compile data for the calculation, **to higher figures (€0.5m one-off)** if a dedicated IT tool capable of recording time and resources spent on each inspection is set up, see box 6 on p. 31 of the report). Option 2 takes account of this adjustment needs by giving MS 2 years to ready their administrative systems to the new costing/charging model.

Option 2 would increase the accountability of control activities by establishing a stronger link between costs and fees through the increased transparency of the fee mechanisms (operators would be able to see clearly for what they are being charged and how charges are derived in light of costs to CAs). This improved clarity would be a driver for improved efficiency of official control systems and also allow better supervision of implementation by the Commission. Furthermore, increased transparency would contribute to the objective of ensuring that fees revenues are not unduly distracted from their intended use (compensate control costs).

The possibility for MS to alleviate the impact of full cost recovery on micro-enterprises by exempting them, fully or in part, the fees paid, on condition that an equal sum is transferred from the general budget to the CA does not deprive CA of the resources which are necessary to perform their control tasks.

Option 3 – Streamline + Integrate

A fully integrated system of controls along the agri-food chain would maximise efficiency of enforcement through simplification and synergy gains, facilitating the fulfilment of the objectives of agri-food chain legislation. MS may partly or fully exempt from fees micro-enterprises, provided that the MS transfers an equal sum to the CA from the general budget.

In addition to the impacts highlighted for Option 2, by expanding the scope of the Regulation to the plant health, PRM and ABP areas, Option 3 would ensure a

[6] Sector production value €400bn/year. No of enterprises 60,000 (Eurostat 2008). Average annual inspection charge per operator at full cost recover approximately €80,000/year (Industry data).

harmonised approach to official controls along the entire agri-food chain, while taking into account the specificities of every sector where necessary. The overall system would become more consistent and reliable as the same mechanisms and tasks would be used by all sectors.

The initial costs from the new accreditation obligation for plant health laboratories will be borne by the EU (see Annex XIX, p. 194) and a transitional period of 5 years is foreseen to facilitate the smooth introduction of the new obligation.

Option 4 – Streamline + Integrate + Broader cost recovery

By broadening the collection of mandatory fees to key activities of the agri-food chain, this option would improve the sustainability of the control system as a whole and reduce its overall dependency on budgetary decisions. It also ensures a more equitable approach to inspection fees, by eliminating the perceived unfairness of the current system, which only requires certain categories of operators to be charged. MS may partly or fully exempt from fees micro-enterprises provided that the MS transfers an equal sum to the CA from the general budget.

The traditional limitation of mandatory fees to (essentially) the meat and milk sectors and border checks on animal origin products has become increasingly difficult to justify, and a source of perceived unfairness among operators being charged. Indeed, with the Regulation, and the requirement for CA to assess risks, and plan and carry out controls across the entire agri-food chain, the rationale of only charging those sectors is lost. Option 4 ensures that mandatory fees also apply to key areas of the agri-food chain, where food and feed operators benefit directly from efficiently performed official controls, as the latter help them deliver safe food and feed on the market. Exporting the cost recovery requirement to all control activities directed at ensuring the safety of food and feed ensures that the positive impacts of Option 2 in terms of increased sustainability of controls work on a broader scale.

The economic impact on each MS and on operators would depend on whether (and to what extent) MS charge already sectors which are not subject to mandatory fees. Data available from MS which do so, suggests that amounts vary according to the size/ throughput of the business and represent **a negligible fraction of production costs.** For instance, fees applied annually irrespective of whether an inspection is actually carried out during the year may **range from small (€84.5/year for smallest scale restaurants in Belgium) to higher, yet still not significant, sums (€1,500/year for largest scale industrial bakeries in Italy).**

In MS where the actual cost of each inspection is charged, amounts vary in relation to the hourly cost of control activities. Official control frequency depends on the risk, on the operators' record of compliance, on the reliability of their own checks, etc. and varies depending on the sector and on the category of business. For illustration purposes **a typical example** would be the case of a food retailer, controlled on a yearly basis, by 1 inspector who spends 1.5 hours to perform the checks and 1.5 hours of desk work to prepare for and to report from it. **Such a hypothetical control would cost,** charged on the basis of control time used, around **€50/year** in Poland, **€150/year** in Italy. Inspections in a restaurant would have a similar frequency but would take longer and would cost between 30-40% more (€65/year in Poland, up to €210/year in Italy). On a global scale, this could guarantee between €2.3bn – and

several times this figure (up to €37 billion in the hypothetical case of all operators being charged at rates currently applied to the largest food businesses, i.e. around €1,500)[7].

As with Option 2, Option 4 would result in limited additional administrative burdens for CAs to establish a fees collecting system, the scale of which is likely to be comparable to those of Option 2, marginally increased by the broader scope of the calculations. Such costs would decrease over time as the fees collecting mechanisms become streamlined and more effective. A transitional period of 3 years would be provided to MS.

[7] Combined new fees for sectors currently subject to mandatory fees (i.e. top up fees in meat sector under Option 2) and those to be charged for the first time under Option 4. No. of enterprises 25m (Eurostat 2008). Typical range of fees charged under Option 4 - €85-€1500 (see above).

6. COMPARISON OF OPTIONS

Table 3: Options compared against the objectives

General objectives	Option 1A	Option 1B	Option 2	Option 3	Option 4
Contribute to promote the smooth functioning of the internal market	**(--)** Divergences among MS likely to increase and affect competition	**(0)**	**(+)** Distortions due to divergent practices (fees) are eliminated (where mandatory fees apply currently)	**(++)** As in 2, plus streamlined rules on official controls would apply across all agri-food chain areas	**(+++)** As in 3, plus distortions linked to fees are eliminated also in the new areas covered by mandatory fees
Maintain a high level of human, animal and plant health protection and animal welfare and prevent that this is undermined by potential non-implementation of EU legislation	**(-)** Possible reduction of controls and of ability to respond to risks	**(0)**	**(+)** More risk-based controls would increase the efficiency and capability to respond to risks	**(++)** Efficiency of controls is maximised and risks of suboptimal protection reduced	**(++)** As in 3
Ensure proper and uniform implementation of EU legislation	**(-)** Possible suboptimal enforcement of law if resources decrease	**(0)**	**(+)** Clearer list of activities to be charged and list of costs; only cost based fees	**(++)** Same requirements and tasks across all agri-food chain sectors	**(++)** As in 3
Ensure a comprehensive and consistent approach to official controls along the agri-food chain	**(0)**	**(0)**	**(+)** Consistent use of risk based principle	**(++)** Same tasks & mechanisms used by all sectors	**(++)** As in 3
Allow for a more efficient use of national control resources	**(0)**	**(0)**	**(+)** Full risk based approach	(++) The inclusion of all agri-food chain areas in would allow cross-sectors risk prioritisation	**(++)** As in 3
Reduce administrative burden and remove unnecessary requirements	**(0)** Removes AB linked to EU fee rules, but MS would administer their own regimes	**(0)**	**(+)** Redundant plans & reports eliminated	(+) As in 2	**(+)** As in 2
Foster closer cooperation between MS to improve official control delivery	**(0)**	**(0)**	**(+)** Rules on admin. cooperation can be adopted, synergies developed (IAS)	**(++)** Synergies possible also with plant health, PRM sectors	**(++)** As in 3
Ensure the availability of adequate resources	**(-)** Sufficient funding would depend on budgetary choices – failure to ensure cost recovery likely to worsen in times of crisis	**(- -)** insufficient funds, as no fees charged on micro-enterprises	**(++)** As cost would be recovered through fees, dependency from and pressure on national budgets decreases	**(++)** As in 2	**(+++)** As in 2, on a broader scale
Ensure equity and fairness in the financing of official controls	**(-)** No level playing field guaranteed as approaches to fee likely to vary	**(-)** No level playing field as micro-enterprises **advantaged**	**(+)** All operators charged with mandatory fees would pay the actual cost of controls	**(+)** As in 2	**(++)** As in 2, plus all operators benefiting most from controls **would all be charged**
Improve transparency, including of the system of financing official controls	**(0)**		**(++)** 'High transparency' requirements can be detailed; transparency of fee mechanism would increase	**(++)** As in 2	**(++)** As in 2

		Option 1.A deregulate fees	Option 1.B exempt micro-entreprises	Option 2. Streamline		Option 3. Streamline + integrate[8]		Option 4. Streamline + integrate + broader cost recovery	
		Action	**€**	**Action**	**€**	**Action**	**€**	**Action**	**€**
Member State CA	**Cost**	Will depend on choices made by each MS on whether to charge or not for official controls (1A) and on whether to recover costs of controls on micro-enterprises from other businesses and % of the latter(1B)		Establishing and operating reporting regime for calculation and charging of fees	**€0.5m one off + €2000/year** (per MS)	Same (as Option 2 + Plant Health and Plant Reproductive Materials)	Same	Same as Options 2&3	Same
	Benefit			Stable funding in areas already charged i.e. meat sector **(top up to the % of costs already charged to reach full cost recovery)**	Depends on % recovery of costs by MS. Approx. **€0.9bn – 3.4bn** new funds per year across EU MS[9,10]	Same	Same	Full cost recovery for all OC on registered operators + as 'top-up' as per Option 2	Approx. total of new fees **€2.3bn – 37bn/year** across EU MS[11] + €0.9-3.4bn per year
Business Oper.	**Cost**	Will depend on choices made by each MS on whether to charge or not for official controls (1A) and on whether to recover costs of controls on micro-enterprises from other businesses and % of the latter (1B)		Top up to existing fees (meat sector) to reach full cost recovery	Depends on % recovery of costs by MS. Approx. **€0.9bn – 3.4bn** new fees (Across EU MS) (approx **0.2 – 0.8**% of annual product. value in the **meat sector[12]**)	Same (as Option 2 + Plant Health and Plant Reproductive Materials)	Same	New costs for operators currently not charged (non meat sector) + 'top-up' as per Option 2	Approx. total of new charges €2.3bn-37bn/year across EU MS + €0.9-3.4bn per yeat
	Benefit			Risk based approach to vet. med. controls	EU-wide saving of **€12.4m – 98.5m/year** (covered by fee)	Same	Same	Same as Options 2&3	Same

8 For Option 3, costs/benefits are related to inclusion of plant health, PRM and ABP into the scope, impacts of which have been assessed within the relevant Impact Assessments for these sectors which are not included here.

9 Sector production value €400bn/year (DG Enterprise). No. of enterprises 60,000 (Eurostat 2008). Average annual inspection charge per operator at full cost recovery approximately €80,000/year (Annex XI of IA).

10 The majority of operators in individual Member States are currently being charged between 30% and 80% of inspection charges, with some paying 100%.

11 New fees for those sectors to be charged for the first time under Option 4. These figures correspond to the two extreme hypotheses of all operators being charged at rates currently used for the smallest and largest scale businesses. No. of operators who are not currently subject to fees – 25m (Eurostat 2008).

12 Based on UK industry estimates.

Preferred option

It is considered that **Option 4** provides the best way to achieve the objectives (see summary in the table above). In fact, although the full integration of all agri-food chain sectors into a single legislative framework implies limited associated costs, it offers the best approach to simplification, clarity, coherence and reduction of administrative burden. As to the financing of controls, **Option 4** preserves the long term sustainability of national control systems by reducing their dependency on public finances and reducing the risk that the ongoing economic and financial crisis impact on the level of control resources available. The limited additional costs for operators are compensated by more efficient controls, mechanisms to reward compliance, and increased accountability of control services.

7. MONITORING AND EVALUATION

The review of the EU legislative framework applicable to official controls along the agri-food chain aims at improving the efficiency and consistency of the system, and ensuring its long term sustainability. It is considered that whichever option is taken forward will clarify the existing rules and make them easier to apply by MS CAs. To assess the success of the measures introduced, the following core progress indicators have been identified in line with the operational objectives of the policy action:

Operational objectives	Indicators
Establish a single and simpler legislative framework for official controls	- Number of requests for legal interpretation received by the Commission - Number of pieces of EU level legislation applying to official controls per sector/product - The reported change in the declared average administrative burden on industry and MS
All controls, including border controls, risk based	Surveying MS on whether resources freed by this review are being used to perform controls in areas of higher risk
Increase the number of cases where cross-border enforcement cases are resolved through administrative assistance and cooperation	- Number of contacts through administrative cooperation contact points foreseen by Article 35 of the Regulation - Number of complaints from economic operators pointing to MS having failed to coordinate investigations in case of cross border non-compliances
Increase the number of formalised instruments between the CAs and customs authorities for the performance of official controls	Number of service level agreements formalised between CAs and other authorities including customs
Reduce occurrence of unsatisfactory enforcement results in FVO reports attributed to resources shortages	Trends in the number of FVO reports which point to a lack of resources in MS