

**Minutes of the First meeting of the Food Fraud Contact Points
Brussels, 8 July 2013
CCAB – 2A, 10:00-17:30**

*Chair: Carmen Garau, DG SANCO/E5 (AM); Eric Poudalet, DG SANCO/E (PM)
Attendees: 27 Member States (PT absent), 2 EFTA Member States (Iceland absent)*

1. Welcome and introduction (CG)

The chair (CG) welcomed the participants and gave an introduction on the scope of action of the food fraud network.

CG recalled the recent horsemeat accident and the letter sent by DG SANCO to all national governments asking to designate the food fraud contact points (FFCPs). This first meeting of the contact points will be in a "brainstorming mode", with a second one tentatively scheduled in October 2013.

CG explained the limits of the competences of the food fraud network and their powers as competent authorities (CAs) within the framework of Regulation (EC) No 882/2004 and of the provisions on administrative assistance (AA) laid down therein.

CG stressed the importance of the information gathered through official controls and of good cooperation through AA for the conduct of investigations on potential frauds. Not all information available to CAs is used to the full for that purpose.

The network of FFCPs should be seen as the means to improving the capability of CAs to detect and to prevent fraud, as well as their capability to provide criminal investigators and prosecutors with vital, fit-for-purpose information. The network should help develop a multidisciplinary approach (involving food CAs and other enforcement actors) against food fraud.

The need to develop such multidisciplinary approach emerges also from discussion in other relevant fora:

- Conclusions of the Council on setting the **priorities for the fight against serious and organised crime between 2014 and 2017** (19 April 2013): *"To disrupt OCGs involved in the production and distribution of counterfeit goods violating health safety and food regulations and those producing sub-standard goods"*; a meeting of the expert group for the setting of the Multiannual strategic plans took place on 4/5 July 2013, and concluded for the need multidisciplinary cooperation, joint operations, exchange of good practices, better prevention, and targeted awareness training;
- Workshop MEP De Lange (18 June 2013): a **European Parliament's own initiative report on the follow up to the horsemeat accident** is expected in Autumn 2013 (issues likely to emerge: on penalties, brokers, IT networking);
- **BTSF: call for next year** will already include training on new investigation/control techniques (fraud and internet sales will be the target);
- Discussions in Council and European Parliament on **the proposal on the new rules on official controls**.

2. Short tour de table and presentation of attendees and their administration/role.

All participants presented themselves and spoke briefly about their tasks and the organisation they work for. Most participants were chosen to be "contact point" because of their work at central level in relation to food safety, official controls on food and organising the work in fighting food fraud.

3. Introduction to the Food Fraud Team in DG SANCO (CG)

A food fraud team was created recently in the enforcement unit in DG SANCO (unit E5). DG SANCO has recently advertised to MS for more people to join this effort, as cost-free SNEs.

The unit has set up the following functional mailbox for the contact point network:

SANCO-882-FOOD-FRAUD@ec.europa.eu

4. Food Fraud Roadmap(CG)

The roadmap was handed to the participants at the meeting. It is based on Commissioner Borg's action plan and presents the scope of actions being taken by the enforcement unit. It should be seen as an internal planning document for the unit, distributed for information/illustration purposes.

CG briefly illustrated the different actions listed in the roadmap, which is and will be adjusted as discussions progress.

5. The EU Food Fraud Network (Working Paper No 1) (KBY)

An introduction was given on the EU Food Fraud Network, based on the discussion paper that was sent to the participants before the meeting (Working Paper no 1). The presentation gave a brief overview of the Food Fraud Contact Points (FFCP), definition of food fraud, the food fraud network remit, and the proposed operational methods for the network.

MS congratulated the Commission with the initiative to get the fight on food fraud moving and thanked DG SANCO for the good quality of the working paper.

The following discussion points were put to the meeting:

a. The remit of the FFCP in relation to the administrative assistance liaison function.

Member States did not have substantial comments on the proposed remit of their FFCP, and judging by the background and level of those chosen, there is a consensus that these contact points should be primarily focussed on giving administrative assistance on food fraud issues within the framework of the official controls regulation (Reg. 882/2004).

b. The definition of food fraud

The proposed "operational" definition: "Food fraud is an intentional violation of the rules referred to in Article 1(1) of Regulation 882/2004, for the purpose of financial or economic gain."

In general there was support for a broad definition, and some proposals to broaden the wording even more. One MS proposed to add the term "possible intentional violation" and another MS proposed to add the term "deceit" to the definition. Some MS hoped that the future official controls regulation would more specifically address fraud than the text of the current proposal, and include the definition in the regulation. There were though also comments on how far this definition could apply, as it must not be seen to infringe on the remit of criminal investigation authorities.

The Commission concurred that the definition must be limited to our own legal framework, and that criminal investigations are not part of the remit. There is a difficulty in finding a definition that covers all the different legal aspects in the MS. Different criminal codes lead to slightly different approaches in the MS. A definition to work with within this network is needed. Violations of food law and deliberate malpractices are to be tackled.

Therefore one of the goals of this network should be to ensure that the national authorities are capable of handing over to the criminal investigation authority material that is fit for purpose.

MS were invited to talk to their lawyers about the proposed "operational" definition and send in their written comments.

c. The tasks of the Food Fraud Network (FFN).

MS supported the proposed tasks of the network and in addition mentioned the following needs:

- building capacity to discover food fraud at laboratory level
- develop an SOP for risk assessment of food fraud.

Following some questions for clarification the Commission emphasized that feed is an integral part of the rules covered by the OCR. So are rules on quality control of food and feed.

d. The modus operandi and priorities of the FFN.

MS in general agreed to the proposed modus operandi, though the issue of the information exchange and confidentiality was widely debated under the next point. The meetings of the network were foreseen in themselves as an important source for building the capacity in the MS.

Specific priorities were how to discover and prevent fraud, building laboratory networks, exchange of information on economic drivers for fraud and discussion on what dissuasive penalties and sanctions could be at national and European level. There was also a proposal to invite Europol to the meeting to be informed of their modus operandi and contact points.

The Commission confirmed that prevention is the most important element of this network. Identification of fraud opportunities is important and initial investigation could help prevention. That is part of the added value to be expected from exchange of information through this network. Responding to a question, the Commission confirmed that DG SANCO is in contact with Europol (and has invited them to join meetings of the FFCPS).

e. An information exchange tool and use of RASFF.

Most MS had comments to the methods for information exchange. The main issue that MS commented on, in one form or another, was the need to be able to exchange confidential information, the need to communicate bilaterally and the need to address limitations in the exchange information on issues that are under criminal investigation.

There are differing opinions on the need to set up a separate it-tool for this information exchange, or if it can be solved within the modalities of the existing RASFF tool. There were also questions about other databases, among them a database used by DG AGRI, to collect information on fraudulent practices and the worry that MS would have to report similar information to many systems.

The Commission confirmed it is not seeking to build a new system that overlaps other systems. We should first focus on the needs of this food fraud information exchange network, before we engage in discussions on the possible technical solutions. The Commission is eager to learn of all other possible systems that MS know about, including market surveillance networks.

f. Other issues.

Co-financing: The Commission confirmed that through the new financial regulation, it would be possible to co-finance pilot projects for the development of innovative control techniques/protocols, and, as it was the case for horsemeat DNA, EU-wide coordinated control plans.

Involvement of the Food and Veterinary Office (FVO): Following a question from a MS it was confirmed that the FVO is included in the discussions within DG SANCO on the future food fraud policy.

6. Organisation of food fraud work and priorities in Member States

Denmark, Italy and Belgium gave presentations on how they organise their work on food fraud nationally. The three countries could present rather varying units that have a dedicated mandate to follow-up suspect food fraud cases nationally. The presentations have been distributed electronically to all participants at the meeting.

All three countries could confirm that their cross-border contacts in the cases they have investigated are often very limited due to lack of knowledge on possible counterpoints in other MS.

The Commission noted that the most relevant difficulties encountered to fight food fraud, are those in relation to cross-border investigations and enforcement. That is where the FFN could provide an added value in solving some of these issues.

7. Cases and State of Play

a. Horsemeat, state of play (EP)

The Commission presented the findings so far in the horsemeat scandal, including graphical results of analysis of information that had been entered into RASFF. Approximately 4400 tests were taken to identify undeclared horsemeat, of these approximately 4,5 % were positive.

Following the presentation the Commission enquired informally if a second round of coordinated tests on horsemeat should be initiated this year.

Most MS could agree to a new round of testing, but many raised the issue of testing for more species, and not limiting it to horsemeat. Some also mentioned the need to agree on harmonised action for positive cases and the issue of harmonised test methods was also raised.

The Commission took note of comments. Unit E5 will send to MS a series of questions to be discussed and in the near future a decision has to be taken on a second round of tests.

b. Other cases – overview of cases under consideration

Other cases were presented by the Commission with the purpose to show what could be of interest for this group.

Weight of frozen shrimps. It is a wide-spread practice to misrepresent the weight of frozen shrimps with ice. It seems that in many instances the weight announced on the package may consist for more than 10% of water.

False certification. A private certification body contacted the Commission following discovery of certificates being circulated that were not their original certificates.

False honey. Information has been given to the Commission about a product that was presented as honey, but contained only sugar, syrup and flavouring. This is a matter of misleading presentation of the contents of the jar in this case and possible unauthorised use of ingredients like flavouring, additives etc.

Pesticides. Illegal imports and parallel trade of pesticides is an ongoing issue that also could be relevant to discuss in the FFN.

MS are asked to give feedback on

- how to use this type of information through the network for it to help preventing similar practices
- how to prioritise cases.

These issues could be discussed at the next meeting of the FFCs. Member States were invited to provide their ideas on this in advance of the next meeting.

8. AOB

a. Training needs:

The Commission is planning to include in the programme for Better Training for Safer Food (BTSF) a module for training on investigating food fraud, and also a separate module for food inspection of e-commerce. There are planned five sessions of three days for each theme.

b. Dissuasive sanctions and penalties

The Commission referred to Objective IV of the internal roadmap, which includes some longer term work on this matter. It also mentioned that the issue is likely to emerge in the framework of ongoing discussions on the review of Regulation 882/2004, and possibly through the forthcoming own initiative report by the European Parliament

Any initiative in this area should be based on a study of how shortcomings or discrepancies in the penalties mechanisms impacts on the correct enforcement of legislation.

Follow-up:

- Participants are asked to fill in annex II of working paper no 1 to support the planning of the next meeting. Deadline is 31 August 2013.
- MS are asked to send in their comments on the definition of fraud. This is also requested by 31 August 2013.
- Unit E5 will send to MS some questions in relation to horsemeat testing.
- There are several openings for cost free Seconded National Experts in DG SANCO E5 to support the food fraud team. Member States are encouraged to publicise this announcement of vacant posts. The deadline for submission of CVs is 25 July 2013.

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