

## **Requirements to be met by operators and/or Member States carrying out investments in traceability projects in order to benefit from EU financial assistance for traceability projects**

### **I. General requirements**

1. Traceability under general food safety legislation<sup>1</sup> covers all stages of production, processing and distribution in the EU. It is sequential, i.e. based on the "one step back, one step forward" approach. This means that operators shall put in place a system enabling them to identify the immediate supplier(s) and immediate customer(s), as well as to provide this information to competent authorities upon request, so that these can trace any product to its source.

2. In order to establish an effective EU fisheries control system, the provisions of the Control Regulation No1224/2009<sup>2</sup> go beyond the sequential traceability currently required by food safety legislation. In particular, Article 58(5) of Regulation No.1224/2009 lays down the additional information that must accompany the lots and be made available to Member States control and inspection authorities. These requirements apply as of 1 January 2012.

3. In accordance with Article 67(6) of Implementing Regulation (EU) No. 404/2011<sup>3</sup>, operators shall affix the information on fisheries and aquaculture products by way of an identification tool such as a code, barcode, electronic chip or a similar device or marking system (a) as from 1 January 2013, to fisheries subject to a multiannual plan; (b) as from 1 January 2015, to other fisheries and aquaculture products.

4. As a result of existing legal requirements, operators will have to implement two complementary types of traceability systems:

- "Internal traceability", which is referring to a system within a company or a location. In accordance with existing obligations under food safety law, these are already in place in Member States and, as appropriate, will need to be updated by operators on the basis of the Control Regulation requirements (Article 58).
- "External (chain) traceability" is a system functioning between companies and countries, which is linked to the existence of internal traceability at each stage in the chain. "Chain traceability" tools are essential regarding the approach of traceability "from net to plate".

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<sup>1</sup> Article 18 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

<sup>2</sup> Article 58. of Council Regulation (EC) No 1224/2009 and Article 67. and 68 of Commission Implementing Regulation (EU) No 404/2011.

<sup>3</sup> Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.

Both types of traceability systems may be subject to EU financial assistance as far as they comply with Article 58 of Regulation (EC) No1224/2009 and its implementing rules.

## **II. Technical requirements to be met by operators and/or Member States carrying out investments in traceability projects**

1. Operators considering using traceability tools such as a code, barcode, electronic chip or a similar device or marking system shall ensure that those are developed on the basis of internationally recognised standards and specifications<sup>4</sup>.

Considering the importance of the intra-EU market of fisheries and aquaculture products, the interoperability of external traceability systems implemented in Member States is a key element of the systems and procedures adopted by operators. For that reason, specific traceability equipments (software, barcode readers, printers, radio-frequency identification (RFID), database, etc.) shall be based on internationally recognised standards, in particular:

a.) *ISO 22005:2007 Traceability in the feed and food chain – General principles and basic requirements for system design and implementation*

This standard allows organisations operating at any step of the food chain to trace the flow of materials, identify necessary documentation and tracking for each stage of production, ensure adequate coordination between the different actors involved, and ensure that each operator is able to provide the information required.

b.) *ISO 12875:2011 Traceability of finfish products -- Specification on the information to be recorded in captured finfish distribution chains*

This standard specifies the information to be recorded in marine-captured finfish supply chains in order to establish the traceability of products originating from captured finfish. It specifies how traded fishery products are to be identified, and the information to be generated and held on those products by each of the food businesses that physically trade them through the distribution chains. It is specific to the distribution for human consumption of marine-captured finfish and their products, from catch through to retailers or caterers.

c.) *ISO/IEC 15420:2009 Information technology -- Automatic identification and data capture techniques - EAN/UPC bar code symbology specification.*

This standard specifies EAN/UPC symbology characteristics, data character encodation, dimensions, tolerances, decoding algorithms and parameters to be defined by applications.

d.) *ISO 17367:2009 Supply chain applications of RFID – Product tagging,*

This standard defines the basic features of RFID for use in the supply chain when applied to product tagging. In particular it makes recommendations for encoded identification of the product, additional information about the product for inclusion on the RFID tag, semantics and data syntax; data protocol to be used to interface with business applications and the RFID system; and the air interface standards between the RFID interrogator and RFID tag.

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<sup>4</sup> Article 67(8) of Commission Implementing Regulation (EU) No 404/2011

Standards above listed do not constitute cumulative conditions of eligibility. The Commission will give priority to projects developed on the basis of standard(s) applicable to a given project.

In general, the fact that traceability equipment is to be developed on the basis of internationally recognised standards, does not mean that corresponding investments need to be "ISO certified".

### **III. Financial requirements to be met by operators and/or Member States carrying out investments in traceability projects**

1. To be eligible for EU financial assistance, investment in traceability equipment may be carried out by both the public sector, i.e. by the national authorities as well as by the private sector<sup>5</sup>. A significant investment into these equipments is expected from the private sector, which includes operators<sup>6</sup> in the whole supply chain. Considering the need to promote a global and integrated approach for the purpose of implementing traceability systems based on internationally recognised standards, projects carried out by a group of operators (or their federations/associations) representing the whole chain or a significant part of it shall also be considered eligible.

2. The direct beneficiary to the Commission is, in all cases, the Member State. This implies that traceability projects shall be part of the Control Programme of the Member States, Member States have to apply for reimbursement of expenses and the payment by the Commission shall be made in favour of the Member States.

The reimbursement of these projects shall be channelled back to the final beneficiaries – i.e. to the operators to which the expenses concerning the traceability investment occurred - by the respective Member State Authority.

3. If the final beneficiary, i.e. the owner of the equipment and/or software is the Member State, the European procurement directive (2004/18/EC) is applicable to Member States. In case the investment exceeds the threshold<sup>7</sup> defined in the latter directive, Member States are to conduct a public procurement procedure.

In the case of private investments (i.e. where the Commission's beneficiary is the Member States' respective Authority, but the final beneficiary is the private company or a group of operators), the EU procurement directive is not applicable.

In case of private investments, Member States shall ensure that the principles of transparency and equal treatment are respected. This requirement refers to both stages, when operators are

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<sup>5</sup> Regulation No.693/2011 Article 8.1.(a)(i), which refers to investments carried out by the competent national authorities, by administrative bodies or by the private sector.

<sup>6</sup> Article 4(19) of Regulation (EC) No1224/2009: "operator" means the natural or legal person who operates or holds any undertaking carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products.

Investments carried out by registered auctions are also considered to be eligible.

<sup>7</sup> Article 7. of the Directive 2004/18/EC of the European Parliament and of the Council on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

informed on the potential EU financial assistance, as well as at the stage of selecting and including applications submitted to the Commission.

At the time of application for EU financial assistance for private traceability investments, Member States shall describe in detail and provide evidence for the procedure that was used to inform operators and to select the projects submitted to the Commission in conformity with the transparency and equal treatment principles (e.g. communication via the respective authority's web site, copies of letters sent to the industries' associations, etc.).

4. With regards to private investment, the total number of approved projects – carried out by private operators or by a group of private operators – shall be limited to 8 per Member State and per Financing Decision. One final beneficiary – i.e. private operator or group of private operators – may have a maximum of two projects approved per Financing Decision and per Member State. The maximum contribution approved for private investments will be limited to EUR 250.000 per project.

In case of cross-border projects the Commission shall be informed of the Member States involved. However, only one of the Member States involved shall present the project to the Commission and shall be designated as the beneficiary.

The maximum ceiling of EUR 250.000 defined above for one project by one beneficiary will be taken as a basis. Therefore, the contribution for cross-border private investment projects and/or for projects carried out by a group of private operators the maximum amount of EUR 250.000 shall be multiplied by the number of countries involved and / or by number of operators involved respectively, with a ceiling of EUR 1.000.000 per project.

The maximum number of projects approved for one private economic operator by Financing Decision shall be limited to two, regardless of the fact whether it was a project delivered by this one operator or in cooperation with others as part of a cross-border project or as part of a project carried out by a group of operators.

5. For investments carried out by Member State Authorities the maximum contribution per project shall be limited to 1 million €. There is no limit set regarding the number of such projects by Member State and/or by Financing Decision.

6. Priority shall be given to:

- projects carried out by MS authorities/group of operators covering/compatible within the whole supply chain in the MS concerned, and
- projects with a transnational intra-EU dimension.

7. In order to avoid double co-financing of the same project Member States have to ensure that applicants do not receive any financial assistance through the European Fisheries Fund<sup>8</sup> (EFF) or other EU funds.

Member States shall either require applicants to attach a declaration stating that they did not and will not apply for any other EU co-funding on these projects; or in cases where applicants did apply for other funds, Member States should declare that these applicants did not and will not receive any co-financing of these projects from other EU funds.

8. Final beneficiaries shall not sell the equipment or software that was co-financed by the EU for a minimum of 3 years. In case a change occurs in the ownership of the private company or

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<sup>8</sup> Article 37 (e) of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund provides for the possibility to grant financial support to traceability projects.

in the structure of the public body, but where the nature of the operation of these entities remain the same, it should not be considered as sale of equipment or software.

9. The following expenditure items relating to traceability shall be considered as eligible:

A, Purchase, development, installation (including consultancy fee) of traceability systems and/or equipment, which are compatible with international standards. This includes software and hardware relating to traceability:

- Scanners
- Barcode readers
- Bar-codes printers
- Weighing equipment
- Off-the shelf software and development of software
- Database
- RFID tags and readers
- Electronic chips or similar devices (for tags, boxes, etc.)

B. Technical assistance to software may be covered for two years as from the installation

10. The following expenditure items relating to traceability shall be considered as ineligible:

- Project management costs,
- Salaries,
- Travel, accommodation and subsistence costs
- Research and development costs
- Running and maintenance costs, such as telecommunication costs, etc.

11. Following information on traceability projects shall be included in the Control Programme of the Member States:

- Scope of the project: relating to the whole supply chain or to part of it;
- Geographical focus: covering one Member State or having a transnational intra-EU dimension;
- Internationally recognised standard that is being implemented;
- Number and total net expenditure by items (printers, scanners, bar code readers, computers, weighing equipment, RFID tags and readers, electronic chips or similar devices, any other equipment, etc.);
- Development of software
- Off-the shelf software
- Other IT applications