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## **CONTRIBUTION**

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From:	General Secretariat of the Council
To:	Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials)
Subject:	Meeting of the Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials; PRM) on 1 and 2 October 2025 - AOB - Comments from Belgium on second official sample

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Delegations will find in the annex comments from Belgium on the issue of the second official sample, presented under AOB item at the Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials; PRM) on 1 and 2 October 2025.

## Comments from Belgium

### PRM proposal and second official sample in the future

This issue is linked to the removal of the RNQP's out of the PRM rules and also linked to the OCR discussion (article 35). As the plant health requirements for RNQP's will no longer be included in the PRM regulation but will instead be retained solely within the plant health regulation (PHR), we are concerned regarding the future management of PRM lot sampling in the future.

Today the RNQP's are regulated both in PHR and in the marketing directives. Under our present implementation of these marketing directives, we have national legislation in place allowing us to take a second official sample when needed in the context of an appeal.

In the future, according to our reading of the PRM proposal, the PHR and the OCR, we believe this practice of a second official sample will not be possible anymore, but instead, sufficient sample should be taken once in order to allow a possible second analysis in case of appeal.

Below, a few reasons are listed on why we propose to keep the possibility of a second official sample:

- in quite a few cases (depending on the sector), operators make use of the option in our national legislation to ask for a second official sample and analysis (at the operator's expense);
- it is not always practically feasible to take sufficient material for a possible second analysis during the first sampling especially in the case of small productions;
- in certain cases, such as for seed potatoes, this is not ergonomically feasible, and the storage of the sample will also reach its limits in practical terms;
- It is also not very time-efficient, as certain sampling procedures are time-consuming. Additionally, the proposal may require a double amount of material to be taken for each sample, which might only be used in a few cases for a second analysis.

Article 35 of the OCR provides that, to enable a second analysis, the competent authority shall ensure that a sufficient quantity of sample is taken if so requested by the operator. Furthermore, it also provide that in cases where it's not possible to take a sufficient quantity, the competent authority can inform the operator thereof. However, we think that this could lead to cases where for certain crops like seed potatoes, a second analysis will not be available while for other crops, operators will be able to choose for a second analysis when desired.

#### *Article 35 (OCR)*

##### *Second expert opinion*

*1. The competent authorities shall ensure that operators, whose animals or goods are subject to sampling, analysis, test or diagnosis in the context of official controls, have the right to a second expert opinion, at the operator's own expense.*

*The right to a second expert opinion shall entitle the operator to request a documentary review of the sampling, analysis, test or diagnosis by another recognised and appropriately qualified expert.*

*2. Where relevant, appropriate and technically feasible, having regard in particular to the prevalence and distribution of the hazard in the animals or goods, to the perishability of the samples or the goods and to the amount of available substrate, the competent authorities shall:*

*(a) when taking the sample, and if so requested by the operator, ensure that a sufficient quantity is taken to allow for a second expert opinion and for the review referred to in paragraph 3, should this prove necessary; or*

*(b) where it is not possible to take a sufficient quantity as referred to in point (a), inform the operator thereof.*

*This paragraph shall not apply when assessing the presence of quarantine pests in plants, plant products or other objects for the purpose of verifying compliance with the rules referred to in point (g) of Article 1 (2).*

*3. Member States may decide that, where there is a dispute between the competent authorities and the operators that is based on the second expert opinion referred to in paragraph 1, the operators may request, at their own expense, the documentary review of the initial analysis, test*

*or diagnosis and, where appropriate, another analysis, test or diagnosis by another official laboratory.*

*4. The application by the operator for a second expert opinion under paragraph 1 of this Article shall not affect the obligation of competent authorities to take prompt action to eliminate or contain the risks to human, animal and plant health, or to animal welfare or, as regards GMOs and plant protection products, also to the environment, in accordance with this Regulation and with the rules referred to in Article 1(2).*

Therefore we wish to suggest some possible solutions.

A solution could be to adapt article 80 of the proposal by adding an extra paragraph to article 22 bis of the OCR, and thereby creating a derogation in article 35 for the RNQP's. Another way out could be the addition of a paragraph to article 35 allowing, specifically for RNQP's and under the condition that identification and traceability of the lots concerned are guaranteed, a second official sample. Very Probably, more appropriate solutions are possible.