



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.1.2002
COM(2001) 821 final

2000/0286 (COD)

OPINION OF THE COMMISSION

**pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the
proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

**laying down the general principles and requirements of food law, establishing the
European Food Authority, and laying down procedures in matters of food**

**AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty**

EXPLANATORY MEMORANDUM

Article 251 (2) third subparagraph, point (c) of the EC Treaty requires the Commission to deliver an opinion on the amendments proposed by the European Parliament at second reading.

The Commission's opinion on the 28 amendments to the common position proposed by Parliament is set out in section 4. In addition, the Commission takes note of the legislative resolution relating to the criteria for the seat of the Authority which is addressed to the Council.

1. BACKGROUND

- Adoption of the proposal by the Commission: 8 November 2000¹
- Opinion of the Economic and Social Committee: 28 March 2001²
- Opinion of the Committee of the Regions: 14 June 2001³
- Opinion of the European Parliament at first reading: 12 June 2001⁴
- Date of political agreement in Council: 28 June 2001
(unanimity without the Commission)
- Date of transmission of the amended proposal: 8 August 2001⁵
- Date of adoption of the common position: 17 September 2001⁶
- Communication from the Commission concerning the common position:
18 September 2001⁷
- Adoption by Parliament of the Recommendation for a second reading : 11 December 2001

2. PURPOSE OF THE PROPOSAL

This Regulation lays down the general principles, definitions and requirements governing food and feed in general, and food and feed safety in particular, at Community and national level, to ensure a high level of protection and the effective functioning of the internal market. It provides the basis for a comprehensive, integrated approach to regulating the food supply chain.

It establishes an independent European Food Authority as a key component to implement this new approach.

¹ COM(2000) 716 final 2000/0286(COD) of 8.11.2000

² OJ C/2001/155 of 29.05.2001 p.32

³ CDR/2001/64

⁴ A5-0198/2001 final of 12.06.2001

⁵ OJ C304 E, 30/10/2001, p.273

⁶ OJ C

⁷ SEC(2001) 1406 final of 18 September 2001

It lays down procedures for matters with a direct or indirect impact on food and feed safety.

3. COMMON POSITION

Almost all the changes adopted by the Council were in line with the central objectives of the proposal and were endorsed by the Commission, including many of the EP amendments. However, certain changes were not in line with the views of the Commission. In particular, the Article in the Common Position referring to the Management Board of the Food Authority differed significantly from the orientation of the Commission. For this reason the Commission was unable to support the Common Position.

The first reading also moved all three institutions to agree that the Rapid Alert System should remain managed by the Commission and not the Food Authority.

The main thrust of the original proposal on General Food Law remained unchanged although the text has been significantly re-ordered with some articles placed into a more logical order with principles separated from requirements. The definitions, particularly the definitions of food, food law, traceability and primary production were clarified, and other changes relating to import and export of food and feed, food and feed safety requirements were acceptable. Greater clarity was provided in the Common Position on the relationship between existing food law and the principles of General Food Law and new legislation.

4. OPINION OF THE COMMISSION ON THE EUROPEAN PARLIAMENT'S AMENDMENTS AT SECOND READING

4.1. Amendments accepted by the Commission

The European Parliament and the Council worked together closely with the Commission to find compromise solutions to problems identified in the Common Position. As a result the Commission is able to accept all amendments to the common position from the European Parliament.

The main differences of opinion that have been resolved relate to the composition and selection procedures for the Management Board and the selection of the Executive Director (Amendments 16, 37, 38, 40). These amendments clarify the selection process for the appointment of the members of the Management Board and the Executive Director..

Amendments relating to the transparency of the Authority and those providing greater legal clarity concerning its procedures are acceptable to the Commission and in line with the Commission's overall objectives of the original Commission proposal. (Amendments 13, 14, 19, 21, 39, 41, 42, 43).

Amendments concerning the fees and budget of the Authority are acceptable as they take into account Article 49 which provides for EEA/EFTA countries financial contributions and the fact that if fees for authorisations are established in the future this will need to be done on the basis of a further report (Amendments 22, 23). With regard to amendment 24, despite the inappropriate reference to the co-decision procedure, the Commission is willing to accept this amendment as part of the global compromise.

The Commission can also accept the name of the Authority including the word Safety (Amendment 1).

In addition, a number of food law issues are addressed by the amendments. The European Parliament amendments relating to international obligations and rights, the rights established within the Treaty and existing legal procedures and practice are acceptable since they did not change the objective and overall meaning of the text (Amendments 7, 31, 44). Amendments providing greater legal clarity concerning the overall risk analysis procedure are also acceptable (Amendments 32 and 33). Minor amendments concerning the objectives of this regulation are also acceptable (Amendments 29 and 30). Amendment 26 is acceptable as it makes the procedures foreseen in the text for unsafe foods and feeds consistent.

Amendments which clarify the responsibilities of food or feed businesses are also acceptable to the Commission since they provide useful clarifications for the implementation of the regulation (Amendments 10, 34).

The Commission supported the concept of whistle blowing in the first reading and maintains its support for these amendments in the second reading and agrees that the reformulation of these is now legally clear. (Amendments 35 and 36).

4.2. Amendments not accepted by the Commission

None

5. CONCLUSIONS

In accordance with Article 250 (2) of the Treaty, the Commission is altering its proposal as indicated above.