



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.09.2000  
COM(2000) 496 final

1998/0301 (COD)

**OPINION OF THE COMMISSION**

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

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 95/53/EC fixing the principles governing the organisation of official  
inspections in the field of animal nutrition**

AMENDING THE PROPOSAL OF THE COMMISSION  
pursuant to Article 250, paragraph 2 of the EC Treaty

## **EXPLANATORY MEMORANDUM**

Article 251, paragraph 2, indent c, of the EC Treaty lays down that the Commission shall deliver an opinion on the amendments proposed by the European Parliament at second reading.

The Commission sets out its opinion in point 3 on the four amendments proposed by the Parliament.

### **1. BACKGROUND**

- a) On 4 November 1998, the Commission forwarded to the Council and to the European Parliament its proposal for a European Parliament and Council Directive COM (1998) 602 final - COD 1998/0301 of 3 November 1998
- b) The Economic and Social Committee delivered a favourable opinion on 24 March 1999.
- c) The European Parliament approved the proposal at first reading without amendments and report on 6 December 1998.
- d) The Council unanimously adopted its common position on 15 November 1999 including an amendment to the provisions concerning the safeguard clause, which the Commission did not accept.
- e) On 11 April 2000, the European Parliament adopted at second reading a European legislative resolution on the common position of the Council including four amendments to that common position.

### **2. PURPOSE OF THE PROPOSAL**

Directive 95/53/EC fixes the principles on which basis, Member States must carry out official inspections in the field of animal nutrition. It covers products originating in the Community as well as products from third countries. The Directive entered into force in May 1998.

The amendments to Directive 95/53/EC aim to:

1. Provide the legal basis for a future adoption of harmonised application measures concerning documentary, identity and physical checks on the relevant imported products.
2. Provide a system of protective measures for such products in the event of a risk for public health including provisions to carry out on-the-spot checks in third countries and in the Community when so required.
3. Provide for a system to set specific inspection programmes when so required in addition to the general programmes already provided for by the Directive.

Originally, the legal basis of the proposal was Art.100A. However with the entry into force of the Treaty of Amsterdam, the Council and the Commission agreed that the proposal should be based on Article 152(4) of the Treaty.

### **3. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT**

#### **3.1. Amendments retained by the Commission**

- **Amendment n°1**

Introduces in the recitals a reference to Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission. In the Commission's view, it is clear that when a decision on a safeguard measure has to be taken, this shall be done in line with Article 6 of the above Decision stipulating safeguard procedures.

- **Amendment n°2**

Reintroduces the original text of the Commission proposal and deletes references to the new Article 23a. This new Art 23a introduced a regulatory procedure according to Article 5 of Decision 1999/468/EC. In the Commission's view, the amendment provides for a faster procedure to adopt emergency measures

- **Amendment n°4**

Deletes the new art.23a as this is no longer relevant in the light of the above amendments n° 1 and 2.

- **Amendment n° 3**

Reintroduces in fact most of the original text of the Commission proposal concerning on-the-spot inspections. The Commission did not oppose the amendments made by the Council on this Article because they were not considered to modify in substance the purpose of the proposal.

However, the Commission in appreciating the support of the European Parliament on its original proposal would like to explain its position in detail:

Amendment n °3 “New Art 17a (1)”:

The European Parliament reintroduced the original text of the Commission proposal concerning the field of application of inspections in animal nutrition in which the co-operation with national competent authorities is specifically underlined.

In the Commission's view, the Council decision aiming to limit the Commission inspections “in so far as necessary for the uniform application of the requirements of this Directive” is not essential because inspections are carried out in particular to verify compliance with specific legislation.

Amendment n °3 “New Art 17a (2)”:

The European Parliament decided, contrary to the Council, that full assistance shall be provided by the Member States to the inspectors in order to carry out their duties. It is clear for the Commission that it is in the interest of the Member State concerned to be available and open for all forms of co-operation with the Commission inspectors as much as possible, to reinforce confidence between the two authorities .

Moreover the European Parliament also decided to introduce the possibility for the Commission to carry out unannounced inspections in the Member States. In the Commission's view, this is already being carried out at the level of premises, but always in co-operation with the competent authorities of the Member State. Prior notification to the competent authority of the Member State of an inspection remains a prerequisite for an inspection, unannounced to the premise in question.

The introduction of unannounced inspection visits also needs to be considered in the context of the need to ensure a continued spirit of mutual trust and co-operation between the Commission services and the Member States.

Amendment n °3 “New Art 17a (3)”:

The European Parliament decided to delete the text concerning the obligation for the Commission to discuss the outcome of the inspections with the competent authority of the Member State before the final report is circulated. In the Commission's view, there is no need for such a legal obligation because such discussions can be carried out in any case and indeed experience has shown that it is possible to obtain further clarifications on the inspections carried out during a final meeting with the competent authorities.

In addition the European Parliament requires to be also informed, of the results of Commission inspections in terms of equality with the Member States and requires the circulation of the inspection report. In this respect the Commission cannot but agree because this is already being done in other sectors such as in the veterinary field. The Commission currently affords Member States an opportunity to comment on the contents of draft inspection reports carried out by the Food and Veterinary Office. These comments are appended as an annex to the final report.

### **3.2. Amendments not accepted by the Commission**

None.

## **4. CONCLUSIONS**

The Commission is in favour of all the amendments to the common position, voted by the European Parliament although it emphasises that the most important amendments are those affecting the procedure to adopt a safeguard measure.

Amendment n°3, conversely, is not essential to improved inspections in the field of animal nutrition.

Having regard to Article 250, paragraph 2 of the EC Treaty, the Commission modifies its proposal as mentioned above.