

COMMON POSITION (EC) No 11/2002**adopted by the Council on 20 November 2001****with a view to adopting Directive 2002/.../EC of the European Parliament and of the Council of ... amending Council Directives 90/425/EEC and 92/118/EEC as regards health requirements for animal by-products**

(2002/C 45 E/05)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152(4)(b) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Numerous Community acts lay down animal and public health conditions for the processing and disposal of animal waste and for the production, placing on the market, trade and importation of products of animal origin not intended for human consumption.

(2) Regulation (EC) No .../2001 of the European Parliament and of the Council of ... laying down the health rules concerning animal by-products not intended for human consumption ⁽⁴⁾ has replaced the rules contained in those acts.

(3) To take account of those new rules, Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽⁵⁾ and Council

Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC ⁽⁶⁾, should therefore be amended,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Directive 90/425/EEC, the seventh indent of Section 1 of Chapter I of Annex A shall be replaced by the following:

'Regulation (EC) No .../2001 of the European Parliament and of the Council of ... laying down the health rules concerning animal by-products not intended for human consumption (OJ L ...).'

Article 2

Directive 92/118/EEC is amended as follows:

1. In Article 2, points (e) and (g) shall be deleted.

2. Article 3 shall be amended as follows:

(a) in the first indent, the following words shall be deleted:

'together with gelatins not intended for human consumption', and

(b) the second indent shall be replaced by the following:

'any new product of animal origin intended for human consumption whose placing on the market in a Member State is authorised after the date provided for in Article 20 may not be the subject of trade or importation until a decision has been taken in accordance with the first paragraph of Article 15 after evaluation, if appropriate in the light of the opinion of the Scientific Veterinary Committee set up

⁽¹⁾ OJ C 62 E, 27.2.2001, p. 166.

⁽²⁾ OJ C 193, 10.7.2001, p. 31.

⁽³⁾ Opinion of the European Parliament of 12 June 2001 (not yet published in the Official Journal), Council Common Position of 20 November 2001 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ L ...

⁽⁵⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 92/118/EEC (OJ L 62, 15.3.1993, p. 49).

⁽⁶⁾ OJ L 62, 15.3.1993, p. 49. Directive as last amended by Commission Decision 2001/7/EC (OJ L 2, 5.1.2001, p. 27).

by Decision 81/651/EEC, of the real risk of the spread of serious transmissible diseases which could result from movement of the product, not only for the species from which the product originates but also for other species which could carry the disease, become a focus of disease or a risk to human health;'

3. In Article 10(2), subparagraph (b) shall be replaced by the following:

'(b) unless otherwise specified in Annex II, products must come from establishments on a Community list to be drawn up in accordance with the procedure laid down in Article 18;'

4. Annex I shall be amended as follows:

(a) Chapters 1, 3 and 4 shall be deleted;

(b) Chapter 5 shall be amended as follows:

(i) in the title, the following words shall be added:

'intended for human consumption';

(ii) in Part A, the following shall be deleted:

'A. where they are intended for human or animal consumption;'

(iii) Part B shall be deleted;

(c) Chapter 6 shall be amended as follows:

(i) in the title, the following words shall be added:

'intended for human consumption';

(ii) Part I shall be amended as follows:

— paragraph (A) shall be replaced by the following:

'A. As regards trade, to the production of the document or certificate provided for in

Directive 77/99/EEC, stating that the requirements of that Directive have been complied with';

— in paragraph (B)1, point (a) shall be replaced by the following:

'(a) the products fulfil the requirements of Directive 80/215/EEC';

(d) in Chapter 7, Part II shall be deleted, and

(e) Chapters 8, 10 and 12 to 15 shall be deleted.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on ... (*). They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 4

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

Done at ...

For the European Parliament

The President

For the Council

The President

(*) This date must correspond to the date of application of Regulation (EC) No ... /2001 of the European Communities and of the Council of ... laying down health rules concerning animal by-products not intended for human consumption.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

The Commission proposed a Directive amending Council Directives 90/425/EEC and 92/118/EEC as regards health requirements for animal by-products in October 2000.

The European Parliament adopted an opinion on the proposed Directive at first reading on 12 June 2001. The Economic and Social Committee adopted an opinion on 26 April 2001 ⁽¹⁾.

After considering these opinions, the Council adopted a Common Position on 20 November 2001.

II. OBJECTIVE OF THE PROPOSED DIRECTIVE

The proposed Directive is a housekeeping measure. It would avoid overlap between the proposed Regulation laying down health rules concerning animal by-products not intended for human consumption ⁽²⁾ and two existing Directives.

III. ANALYSIS OF THE COMMON POSITION

A. Implementation date

The Commission's proposal envisages that Member States would have to implement the Directive by 1 February 2003. This is the date of application that the Commission proposed for the Regulation laying down health rules concerning animal by-products not intended for human consumption.

The European Parliament has proposed that the Regulation apply from 1 January 2002. It has also proposed a consequential amendment to the Directive, which would require Member States to implement its provisions by the same date.

The Council fully accepts the principle of Parliament's proposed amendments: that the two acts should take effect as soon as practicable. It believes that the Regulation should apply, and the implementation of the Directive should have to be completed, six months after their entry into force.

The Common Position adopted by the Council with a view to the adoption of the Directive would therefore require Member States to implement the provisions of the Directive by the date of application of the Regulation.

B. New products

Compared to the Commission's proposal, the Common Position provides for an additional amendment to Article 3 of Directive 92/118/EEC. This is a consequential amendment, to prevent overlap between that Directive and the Regulation laying down health rules concerning animal by-products not intended for human consumption.

The Common Position adopted by the Council with a view to the adoption of the Regulation contains a new Article 3(2). This would make clear that Member States could regulate the importation and placing on the market of products for which the Annexes to the Regulation contain no rules.

The similar rule in Article 3 of Directive 92/118/EEC is therefore no longer necessary. The Common Position adopted by the Council would restrict its scope to products of animal origin intended for human consumption.

⁽¹⁾ The Committee of the Regions decided not to provide an opinion.

⁽²⁾ The Council adopted a Common Position with a view to the adoption of the Regulation at the same time as it adopted a Common Position with a view to the adoption of the Directive.

IV. CONCLUSION

The Council welcomes the fact that it has been able to incorporate the principle of the European Parliament's amendment in its Common Position. It hopes that this will facilitate the rapid and simultaneous adoption of the Directive and the related Regulation on animal by-products.
