Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation amending Regulations (EEC) No 2759/75, (EEC) No 2771/75, (EEC) No 2777/75, (EC) No 1254/1999, (EC) No 1255/1999 and (EC) No 2529/2001 as regards exceptional market support measures

(COM(2004) 712 final — 2004/0254 (CNS))

(2005/C 221/10)

On 3 December 2004 the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 January 2005. The rapporteur was Mr Leif E. Nielsen.

At its 414th plenary session held on 9 and 10 February 2005 (meeting of 9 February), the European Economic and Social Committee adopted the following opinion by 135 votes with 6 abstentions:

1. Background

1.1 The outbreak of such serious infectious diseases as Bovine Spongiform Encephalopathy (BSE), Foot and Mouth Disease (FMD), Classical Swine Fever (CSF) and Newcastle Disease (ND) among domestic livestock has resulted in repeated crises on the markets for animal products in the EU. When there is an outbreak of such epizootic diseases, among the measures taken are the slaughtering of animals and restrictions on trade, with the aim of preventing the outbreak from spreading further. As a general rule the costs involved in eradicating epizootic diseases are financed by the Veterinary Fund, with 50 % of the funds coming from the Member States.

1.2 In addition, there is a strain on the markets in the products concerned, not least as a result of sales bans and restricted areas being introduced. The rules for the markets in pigmeat, eggs, poultrymeat, beef and veal, milk and milk products, and sheepmeat and goatmeat therefore include facilities for introducing measures to support the market in such situations. Before such exceptional measures are applied, it is a precondition that the Member States concerned have introduced the veterinary measures necessary to stamp out epizootic diseases. Moreover, measures to relieve the market situation are only introduced for the time that support for the market concerned is strictly necessary.

1.3 The exceptional measures concerned, which are taken by the Commission using the management committee procedure, were originally implemented with full Community financing, as was the case for CSF at the end of the 1980s and the beginning of the 1990s. In 1992, national co-financing was used for the first time in connection with CSF. Because it was not clear what the rate should be, in 1994 the Commission introduced provisions that clearly specified a figure of 70 % financing by the Community for a maximum number of animals. Later on, the same rate was applied in the beef and veal sector when combating BSE and FMD. Since 2001, the national co-financing rate has been 50 % since the requirement from the European Court of Auditors that there should be parallelism between co-financing under the Veterinary Fund and the co-financing of market measures.

1.4 Following a request from Germany, the Court of Justice ruled in 2003 that Commission had no authority to set a national co-financing rate of 30 % in a case involving the rules on the buying-up of beef in connection with BSE [1]. The Commission therefore has no authority to continue the practice hitherto and so it is proposed that in future a national co-financing rate of 50 % should be specified in the market organisations for pigmeat, eggs, poultrymeat, beef and veal, milk and for sheepmeat and goatmeat regarding both internal market measures and sales on non-EU markets.

2. General comments

2.1 It is regrettable that since 1992 the Commission and the Member States have not respected the hitherto applicable general principle of full Community financing for measures forming part of the so-called 'first pillar' of the Common Agricultural Policy, including measures implemented within the framework of the common market organisations. It is in the nature of things that by adopting the current proposal the Council may deviate from this principle, which it adopted itself. But because of the ruling of the Court of Justice in this matter, the Commission cannot deviate from Council decisions without express authorisation, even if it does so with the co-operation of the Member States in the relevant management committees.

[1] Judgment of 30.9.2003 in case C-239/01, Collection of Decisions 2003 p. I-10333

2.2 Depending on the extent and duration of epizootic diseases, the measures taken may result in considerable costs being incurred, which to a very large extent must be covered by public funds. The question of allocating costs between the EU and the Member States is closely linked with that of financial solidarity between the Member States. In cases of national co-financing some Member States might be more willing and able to cover such expenditure than others. Some Member States might pass the costs on directly or indirectly to businesses, which, as became clear during the BSE crisis, may lead to considerable distortions of competition.

2.3 According to the Commission the Member States will make a bigger effort to combat and prevent livestock diseases, if there is national co-financing. Although the EESC can understand this argument, it cannot be ruled out that sometimes demand will delay decisions or make their adoption more difficult, thus hindering the implementation of effective countermeasures.

2.4 The EESC can also understand the Commission's argument that the proposal will imply a continuation of the practice that has been followed since 1992 and ensure parallelism between veterinary fund and market organisation measures.

2.5 However, the EESC feels that expenditure on exceptional measures in connection with the market organisations as originally laid down by the Council is based on joint responsibility and financial solidarity. In the EESC's view, any violation of this principle would create a risk of the Member States adopting different approaches to the fight against epizootic diseases, which, despite effective monitoring and preventive measures, can break out by chance and without warning. The consequences for the market would also affect other Member States. Moreover, there is a risk that national co-financing here will have a knock-on effect on other areas, bringing with it the danger of further re-nationalisation of the Common Agricultural Policy.

2.6 If, despite this, there is still support for the Commission proposal, it would be administratively burdensome — and essentially unjustified — if the financial contribution under this rule was dealt with under the Treaty's provisions regarding state aids. The Commission's proposal for exemption from the notification procedure should therefore have applied from the outset.

3. **Conclusion**

3.1 The EESC wishes to maintain the principle of full Community solidarity for exceptional measures under the rules applying to market organisations, and therefore rejects the Commission's proposal for 50 % co-financing by the Member States.

Brussels, 9 February 2005.

The president
of the European Economic and Social Committee
Anne-Marie SIGMUND