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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 6 January 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning of
the European Union concerning the position of the Council on the adoption of
a Communication from the Commission to the European Parliament pursuant
to Article 294(6) TFEU concerning the position adopted by the Council at first
reading on the adoption of a Directive of the European Parliament and of the
Council amending Directive 2000/75/EC as regards vaccination against
bluetongue

Delegations will find attached Commission document COM(2011) 943 final.

Encl.: COM(2011) 943 final



EUROPEAN COMMISSION

Brussels, 6.1.2012
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TO THE EUROPEAN PARLIAMENT**

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 15 November 2010
(document COM(2010)(666)/EC final – / COD): 2010/0326

Date of the opinion of the European Economic and Social Committee: 15 March 2011

Date of the position of the European Parliament, first reading: 7 April 2011

Date of adoption of the position of the Council: 15 December 2011

On 15 November 2010, the Commission submitted to the legislator a proposal for a Council Directive amending Directive 2000/75/EC¹ as regards vaccination against bluetongue (COM(2010)666), a disease of ruminants (cattle, sheep, goats) that has caused major economic losses in the EU in the last decade. The Commission proposal has as legal base Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease², and in particular the second indent of Article 15 thereof.

During the discussions in the Council, no Member State objected to the text of the proposal when it was presented for technical discussions at the meeting of the Chief Veterinary Officers and at the Agricultural Counsellors attachés on 13 January 2011. The COREPER acknowledged the urgency of this matter unanimously and adopted without discussion the position of the Member States on 26 January 2011. The chair of the COREPER transmitted the Commission proposal to the European Parliament by letter on 26 January 2011, accompanied by a proposal for the modification of its legal basis to Article 43(2) of TFEU by the co-legislators following the ordinary legislative procedure. COREPER further invited the Parliament to treat this issue urgently in order to meet the deadlines of the Commission proposal.

¹ Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74).

² OJ L 62, 15.3.1993, p. 69.

The European Parliament adopted its opinion in first reading on 7 April 2011. The Commission did not modify its proposal in light of this first reading. The Council has already indicated the support to the measures proposed by the Commission and it is also ready to support the minor amendments adopted by the European Parliament.

The horizontal question of correlation tables is now the subject of an inter-institutional agreement, endorsed in the Competitiveness Council on 29 September 2011 and by the Conference of the Presidents of the European Parliament on 20 October 2011.

The Council has adopted its position at first reading on 15 December for a possible early second reading.

The opinion of the Economic and Social Committee was adopted on 15 March 2011 (NAT/512). The rapporteur is Mr Ludvík Jírovec.

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The aim of the Commission proposal is to offer more flexibility to vaccination against the bluetongue disease, in order to allow animals to be vaccinated also outside those areas subject to animal movement restrictions.

The Commission proposal thus amends Council Directive 2000/75/EC. Article 5 is amended so that competent authorities allow vaccination against bluetongue subject to a specific risk assessment. The amendment of Article 8(2) (b) of Directive 2000/75/EC will provide that within the surveillance zone no vaccination is carried out with "modified live attenuated" vaccines. Further, the proposal provides for the amendment of Article 10 (2) of the Directive to the effect that the prohibition currently imposed against any vaccination within the surveillance zone, be limited to vaccination with "modified live attenuated" vaccines; and thus it allows vaccination with "inactivated vaccines", which are safer.

In addition the Commission proposal foresees that when Member States adopt the above provisions, they shall communicate to the Commission the text of those provisions and a correlation table between those provisions and the Directive.

3. COMMENTS ON THE POSITION OF THE COUNCIL

The Council position is that Article 43(2) of TFEU should be used as legal base instead of the one proposed by the Commission because the Lisbon treaty introduced the ordinary legislative procedure for proposals based on Article 43. The Commission does not object to this change of legal base.

As the Council agrees to the possibility to vaccinate against bluetongue also outside those areas subject to animal movement restrictions, in line with the Commission proposal, the Commission supports the Council position.

Given the delays in the adoption of the proposal due to the inter-institutional debate on the issue of correlation tables, the Council intends to postpone the proposed dates of adoption and publication of the national laws, regulations and administrative provisions necessary to comply with this Directive and of application of those provisions. The Commission accepts this postponement which stays compatible with the next vaccination season.

With regard to the request for a correlation table for the present proposal, the Council is opposed to it. In light of the limited number of amendments proposed to an existing Directive transposed in national law since a decade, and the resulting easy check on their transposition, the Commission can accept that no provision on correlation tables is inserted in this Directive.

The European Parliament proposed amendments to the proposal, essentially modifying the legal base to Article 43(2), and introducing new implementation dates to ensure enforcement in time for the vaccination season. None of those amendments were controversial. However the inter-institutional discussions on the question of correlation tables blocked any progress on the proposal.

4. CONCLUSION

The Commission welcomes the Council position at first reading, which paves the way for an early second reading agreement.