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from : General Secretariat of the Council
to : Permanent Representatives Committee (Part I) / Council

No. Cion prop. : 8784/12 - COM(2012) final *and* 13701/11 - COM(2011) 524 final

Subject : a) Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EC) No 1760/2000 as regards electronic identification
of bovine animals and deleting the provisions on voluntary beef labelling
b) Proposal for a Directive of the European Parliament and of the Council
amending Council Directive 64/432/EEC as regards computer databases which
are part of the surveillance networks in the Member States
- Progress report

I. INTRODUCTION

On 30 August 2011, the Commission submitted to the European Parliament and to the Council the two above mentioned proposals¹. The proposed Regulation is based on Article 43(2) and 168(4)b TFEU and the proposed Directive on Article 43(2) TFEU.

¹ The original proposal amending Regulation (EC) No 1760/2000 (13700/11 - COM(2011) 525 final) was later replaced by the amended proposal (8784/12 - COM(2012)final), submitted by the Commission on 4 April 2012.

A. Objectives of the proposed Regulation

The proposed Regulation has two main objectives:

- to introduce electronic identification (EID) as an official means of identification of bovine animals throughout the EU on a voluntary basis for the keepers.
- to repeal the specific administrative procedures required for indication of voluntary information on the labels of beef and beef products.

Both objectives are listed as specific sectoral reduction plans in the context of the Action Programme for Reducing Administrative Burdens in the European Union¹.

Other measures in the proposal aim at simplifying certain information obligations regarding bovine animals and at aligning the rules on committee procedures with the provisions of the Lisbon Treaty on delegated and implementing powers.

B. Objectives of the proposed Directive

The proposed Directive would adjust the current surveillance networks by introducing an additional requirement to indicate in the computer database the type of electronic identifier, if applied to the animal.

¹ Commission Communication of 2007 on Action Programme for Reducing Administrative Burdens in the European Union (5924/07 - COM(2007)23 final) lists Regulation (EC) No 1760/2000 as one of the priority areas, and in 2009 both electronic identification of bovine animals and repealing of provisions on voluntary beef labelling were further specifically listed as sectoral reduction plans in the context of that programme (15019/09 - COM(2009) 544 final). The programme was recently endorsed by the European Council, emphasising the need to maintain momentum in its implementation and calling for the swift adoption of the simplification proposals pending before Council and Parliament (Conclusions of the European Council of 23 October, doc. EUCO 52/1/11).

Coreper and Council are invited to take note of the current state of play, as follows:

II. STATE OF PLAY

During the Polish and the Danish Presidencies, the proposals have been examined in detail by the Working Party of Veterinary Experts (Animal Health)¹, followed by the Working Party of Agricultural Counsellors / Attachés² and the Working Party of Chief Veterinary Officers³.

III. MAIN ELEMENTS OF DISCUSSION

A. Proposed Regulation

1) Electronic identification

The Commission's proposal would introduce the option for keepers to use electronic identification as an official means of identification of bovine animals with immediate effect throughout the EU. Thus, it would allow keepers to identify their bovine animals with an electronic means of identification accompanying a conventional ear tag, or to keep the two conventional ear tags as currently required. As an additional step, each Member State could also decide to make electronic identification mandatory on its territory.

¹ 23 September and 29 November 2011.

² 27 March, 24 and 27 April and 4 June 2012.

³ 26 March, 4 May and 8 June 2012.

Some delegations expressed concerns about the fact that a keeper's choice for the EID option would entail mandatory recognition of EID as an official means of identification. While some delegations would prefer to introduce the new possibility as soon as possible, other delegations requested a transitional period and some would prefer not to change the current requirements at all. On the basis of discussions at the Working Party of Chief Veterinary Officers on 4 May 2012, the Presidency concluded that a transitional period of seven years for introducing electronic identification as an official means of identification would meet the approval of the majority of delegations.

2) Means of identification

The Commission's proposal would confer to the Commission delegated and implementing powers to adopt all requirements for the means of identification, including their format and design, as well as the technical standards and procedures for the implementation of the electronic identification of bovine animals. Following the request made at the Working Party to more explicitly define the content and scope of this delegation of power, the Presidency presented a partial rewording of Article 4, providing i.a. for an exhaustive list of possible means of identification in an Annex.

3) Derogations from the unique identification code

The Commission's proposal would require that all bovine animals bear in both official means of identification the same unique identification code, without exception. However, current technical conditions related to electronic identifiers make it difficult or impossible to follow this rule in a limited number of very specific situations. The Presidency therefore introduced in the compromise text two derogations which cover these rare cases and are subject to strict conditions.

4) Voluntary beef labelling

The Commission proposes to repeal the voluntary labelling system, which has to be applied for the indication of any additional information to that which is compulsory according to Regulation (EC) No 1760/2000. This system only exists for beef and beef products and was introduced by Council Regulation (EC) 820/97 as part of the measures intended to re-establish stability on the beef market in the wake of the BSE crisis.

After the proposed deletion of this system, operators, when providing additional information on labels, would no longer have to undergo a pre-approval procedure. However, such additional information would still have to respect all horizontal provisions on labelling, presentation and advertising of foodstuffs and comply with the compulsory beef labelling requirements set out in Regulation (EC) No 1760/2000. While the majority of delegations is in favour of repealing the system as proposed by the Commission, some delegations would prefer to keep it in place.

5) Definitions

The Commission proposes to leave certain definitions of beef products for secondary legislation (as is the case today¹) and confer the power to the Commission to establish such definitions in the form of delegated acts. However, the Working Party preferred to reserve the power to establish definitions to the European Parliament and Council as co-legislators.

¹ Commission Regulation 1825/2000 laying down the rules for the application of Regulation No 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products (OJ L 216, 26.8.2000, p.8).

6) Conferral of powers to the Commission

The Commission proposal spreads provisions regarding delegated and implementing powers over three Articles (Articles 10, 10a and 19) in addition to the specific rules in question. For reasons of clarity and consistency, the Working Party agreed to re-structure these provisions, putting them in each case directly into the relevant Article. The Working Party also agreed to define the objectives of the delegation of power more explicitly, in conformity with Article 290 TFEU. Furthermore, some powers were considered to be obsolete.

7) Sanctions

According to the Commission's amended proposal, the Commission should be empowered to adopt delegated acts to lay down administrative sanctions. This approach was not supported by the Working Party. Given the fact that the existing secondary legislation already contains a very broad set of provisions on sanctions, the Presidency compromise consolidates these provisions in the basic act. To meet the Commission representatives' concern about sufficient flexibility regarding these provisions, the Presidency suggested to give the Commission implementing powers to ensure uniform conditions of their application, where needed.

B. Proposed Directive

To align it with the proposed changes in Regulation (EC) 1760/2000, the Commission proposes to amend the current Council Directive 64/432/EEC by requiring that the type of electronic identifier is indicated in the computer database, if it is applied to the animal. However, the majority of delegations agreed that the new element did not provide added value in terms of traceability and was therefore not necessary. If this reasoning is followed, the only substantial objective of the Commission proposal would be eliminated.

The opinion of EP COMENVI includes an amendment to add in the computerised database the electronic identification code if the latter is different from the code of the other means of identification. This was again considered to be unnecessary by the Working Party, as adding such indication would not require a change to the current Directive.

IV. EUROPEAN PARLIAMENT

The European Parliament appointed as Rapporteur Mrs Auconie (EPP - FR). The leading committee is the Committee on the Environment, Public Health and Food Safety (EP COMENVI), while the Committee on Agriculture and Rural Development (EP COMAGRI) is consulted.

EP COMENVI adopted its opinion on 31 May 2012. However, as certain amendments in the report regarding voluntary beef labelling contradict each other, the European Parliament is expected to clarify and confirm its position before entering into negotiations with the Council.

On 4 June 2012, the Presidency presented to the Working Party of Agricultural Counsellors / Attachés two table documents suggesting initial reactions to the amendments of the COMENVI opinion. However, pending confirmation of the EP's position, delegations were not asked to confirm their positions at this stage. The Commission representatives kept a general reserve on these Presidency suggestions. The tables are set out in documents 10017/1/12 REV 1¹ and 10412/12.

¹ As revised after initial remarks by delegations at that meeting.