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**DRAFT STATEMENT OF THE COUNCIL'S REASONS**

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Subject: Common position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council repealing certain Directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption, and amending Directives 89/662/EEC and 92/118/EEC and Decision 95/408/EC

**COMMON GUIDELINES**

**Consultation deadline: 22.10.2003**

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**DRAFT STATEMENT OF THE COUNCIL'S REASONS**

## I. **INTRODUCTION**

In July 2000, the Commission proposed a Directive repealing certain Directives on the hygiene of foodstuffs and the health conditions for the production and placing on the market of certain products of animal origin intended for human consumption, and amending Directives 89/662/EEC and 91/67/EEC.

The European Parliament adopted an opinion on the proposed Directive in June 2003.

The Economic and Social Committee adopted an opinion in March 2001.<sup>1</sup>

After considering these opinions, the Council adopted a common position on [...] 2003.

## II. **OBJECTIVE**

The proposed Directive is the fifth element of a package of five proposals with the aim of consolidating, updating and simplifying Community legislation on food hygiene while ensuring a high level of protection of public health. The Council simultaneously adopted common positions on all of the four proposals subject to the co-decision procedure.<sup>2</sup>

The Directive provides for housekeeping measures for the transition from existing hygiene rules to the new hygiene legislation. In particular, it would:

- repeal a number of existing Directives laying down hygiene or health rules for various products of animal origin;
- amend or alter the application of other existing Directives and one Decision; and
- maintain existing implementing measures in force until necessary measures can be adopted under the new hygiene legislation.

### III. ANALYSIS OF THE COMMON POSITION

#### A. Date of application (Article 1)

The Council agrees that all elements of the hygiene package should take effect at the same time. However, it believes that an explicit statement to this effect would provide greater legal certainty. In the common position, therefore, Article 1 of the Directive defines as the “relevant date” the date of application of the three Regulations establishing the new hygiene rules. Subsequent Articles provide for the necessary measures to apply with effect from this date.

The common position is thus consistent with the aim of the sole amendment in the European Parliament’s first-reading opinion.

#### B. Repeal of existing Directives (Article 2)

In the common position, Article 2 of the Directive provides for the repeal of existing Directives laying down rules for products of animal origin. In the common position on the Regulation on the hygiene of foodstuffs, Article 17 provides for the repeal of Directive 93/43/EEC, which lays down hygiene rules for all types of food.

#### C. Directive 92/118/EEC (Article 3)

In addition to providing for the repeal of Annex II to Directive 92/118/EEC, the common position provides for consequential amendments to other provisions of that Directive.

D. Interpretative and saving clauses (Article 4)

Article 4(1) provides for references to the provisions that would be repealed pursuant to Articles 2 and 3 to be interpreted as references to the new hygiene and health rules.

Article 4(3) provides for a temporary reprieve for certain existing implementing rules. Compared to the Commission's original proposal, it:

- clarifies that it would be possible to repeal such rules without replacement if they are no longer necessary;
- covers provisional lists of third countries and third country establishments drawn up in accordance with Decision 95/408/EC;
- covers implementing rules adopted on the basis of Directive 76/462/EEC; and
- does not cover Decision 94/371/EC since its rules would add nothing to those of the new Regulations.

The provision on health marks in Article 3(3) of the Commission's original proposal is no longer necessary, since the new hygiene Regulations contain relevant provisions.

E. Adaptation of existing legislation (Articles 5, 6 & 7)

The common position incorporates consequential changes to the amendments to Directive 89/662/EEC.

It does not provide for any amendment of Directive 91/67/EEC, since the adoption of Directive 2002/99/EC has made this unnecessary.

It provides for an amendment to Decision 95/408/EC to extend its application until the new hygiene legislation takes effect. This is necessary since that Decision would currently expire on 31 December 2003, while a new legal basis to draw up and update lists of third countries and third country establishments will not be available until after adoption of the hygiene package.

It also contains a provision adapting the scope of application of Directive 76/462/EEC. Since the new hygiene rules will supersede its rules on fresh meat and meat products, it provides for the requirements of that Directive to continue to apply only in respect of the importation of live animals.

#### IV. CONCLUSION

The Council is pleased to note that the Commission accepts its common position and that the draft Regulation is consistent with the aim of the amendment that the European Parliament adopted at first reading. It hopes that this will permit the rapid adoption of the Directive and of the remainder of hygiene package.

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- 1 The Committee of the Regions decided not to provide an opinion.
- 2 In December 2002, the Council adopted Directive 2002/99/EC laying down animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption, on the basis of the Commission's fourth proposal.