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From: General Secretariat of the Council
To: Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013 [Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material], and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

- Progress report

I. INTRODUCTION

1. The Presidency hereby submits its report on the progress achieved during the second half of 2014 on the abovementioned proposal. This report has been drawn up under the responsibility of the Presidency and on the basis of the positions expressed within the preparatory bodies of the Council.

2. The Commission submitted this proposal to the Council on 6 May 2013, together with an impact assessment¹. This proposal is one of a package that also includes plant health, plant reproductive material, animal health and food and feed expenditure. The proposal is based on Article 43(2), Article 114 and Article 168(4)(b) TFEU (ordinary legislative procedure).
3. The aim of the proposal is to simplify and streamline the existing legal framework, in order to improve the efficiency of official controls performed by the Member States along the food chain while minimizing the burden for operators and ensuring they are on a level-playing field. The proposal also intends to establish a unique set of rules applicable to all sectors (in particular, plant health, plant reproductive material, animal by-products and organic farming are now included in the proposal).
4. The European Parliament adopted its position at first reading on 15 April 2014. This position was subsequently confirmed by the newly elected European Parliament in July 2014 and Ms Karin KADENBACH (S&D, AU) was designated as the new rapporteur.
5. The European Economic and Social Committee and the Committee of the Regions delivered their opinions on 16-17 October 2013 and on 29 November 2013 respectively.
6. Four national parliaments delivered opinions on the application of the principles of subsidiarity and proportionality.
7. In the Council, the proposal is being examined by the joint Working Party of Veterinary Experts (Public Health) and Phytosanitary Experts². Given the complexity of the proposal and the number of different sectors to which it will apply, the examination in the joint working party proceeded in parallel with national consultations. Delegations will find below a summary of the state of play of this examination.

¹ The impact assessment was presented and discussed at the first meeting of the Joint Working Party of Veterinary Experts (Public Health) and Phytosanitary Experts on 13-14 June 2013.

² Meetings under the Italian Presidency were held on 8-9 July, 9-10 September, 7-8 October, 29-30 October, 13-14 November and 2-3 December 2014. Furthermore, the Italian Presidency reported orally on the state of play to the Working Party of Chief Veterinary Officers on 1 October and 25 November 2014.

II. STATE OF PLAY

8. Building on the work done by the three previous Presidencies and also considering discussions with, and written contributions from delegations, the Italian Presidency continued to present suggestions for the rewording of the text with the exception of Articles 19, 20, 21, 22, 24 and Articles 138 to 162³.
9. Many of the Italian Presidency's suggestions were supported by a large majority of delegations, who generally considered them a step in the right direction. In particular, the suggestions for rewording the provisions on official controls on animals and goods entering the Union received broad support (Articles 42 to 75)⁴.
10. However, on some provisions, despite the Italian Presidency's best endeavours, it is clear that further work is still needed:
 - a) provisions concerning the financing of the official controls and other official activities (Articles 76 to 84);

³ The following documents containing suggested rewording have been examined during the Italian Presidency:

- Articles 1 to 14 and Articles 25 to 63: 8221/14 + REV 1 + REV 2 + REV 3
- Articles 15, 16, 17, 18 and 23: 11312/14 + REV 1 + REV 2 + REV 3 + REV 4
- Articles 64 to 75: 9940/14 + REV 1
- Articles 76 to 84: 10131/14 + REV 1 + REV 2 + REV 3 + REV 4 + REV 5 + REV 6
- Articles 85 to 99: 11895/14 + REV 1
- Articles 100 to 128: 12209/14 + REV 1
- Articles 129 to 137: 13603/14.

⁴ At this stage, some delegations maintain parliamentary and/or scrutiny reservations on parts of the suggested rewording.

Under the Commission proposal, Member States are required to ensure that adequate financial resources are made available for official controls and other official activities. Building on the current Regulation (EC) No 882/2004, which establishes mandatory minimum fees for official controls on certain activities, the Commission proposes extending mandatory fees to operators throughout the agri-food chain as they benefit directly from efficiently performed official controls. However, the proposal provides that microenterprises would be exempt from paying those fees. Furthermore, the proposal stipulates that fees would be either established at a flat rate on the basis of overall costs or calculated on the basis of actual costs of individual official controls, and in a transparent manner.

The Italian Presidency made every effort to reconcile diverging views among Member States on this important issue. Although all delegations acknowledged that adequate financial resources should be made available for official controls and other official activities, they could agree neither on the extent of financing to be covered by mandatory fees nor on the sectors and activities to be charged. Full subsidiarity was not an option either, even though many delegations were of the opinion that adequate flexibility and subsidiarity should be provided.

- b) specific provisions concerning the **role of the official veterinarian** in the performance of official controls on live animals and products of animal origin in the Union and at Union borders (Articles 15, 47 and 53);

Under the Commission proposal, certain tasks involved in carrying out official controls can be performed by the official veterinarian, under his supervision or under his responsibility, or even by other qualified and trained staff designated by the competent authorities. The reasoning behind this is to allow competent authorities to make efficient use of the human resources available. Many delegations objected to this increased flexibility, arguing that the official veterinarian should remain the key actor for official controls on live animals and products of animal origin. In particular, a majority of delegations confirmed the principle that the ante-mortem inspection of live animals at slaughter should be performed only by an official veterinarian. These delegations could, however, accept the possibility of establishing criteria and conditions to derogate from this principle in a delegated act. A few delegations insisted on keeping some flexibility and suggested focussing instead on harmonised training requirements for the staff performing the tasks in question.

- c) **specific rules for official controls and action taken by the competent authorities** in the different sectors covered by the scope of the proposal (Articles 15 to 24):

Under the Commission proposal, the specific rules on official controls and action taken by the competent authorities for the specific sectors covered were to be adopted through delegated acts. To address concerns raised by most delegations about this, the Italian Presidency proposed that most of the current specific rules be inserted in the basic act, thus limiting the number of empowerments. That proposal was welcomed. Consequently, suggestions for rewording were put forward and discussed for Articles 15, 16, 17, 18 and 23. However, the detailed specific provisions will require further work.

III. CONCLUSION

11. The Italian Presidency did its utmost to advance the technical discussion on this complex proposal. Substantial progress was achieved on several points and the work done helped to clarify delegations' positions on many other issues. Nevertheless, given the length and the complexity of many of the proposal's technical provisions, additional work will be needed.
 12. The work carried out under the Italian Presidency will serve as a solid basis for the continuation and finalisation of the technical work in the near future.
 13. The Presidency invites the Permanent Representatives Committee (Part 1) to take note of its intention to submit its progress report to the Council.
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