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**PLENARY MEETING OF THE ADVISORY GROUP ON THE FOOD CHAIN AND ANIMAL AND
PLANT HEALTH**

Summary Record

14 NOVEMBER 2011

1. Opening of the meeting and adoption of the Agenda

The Deputy Director-General of DG SANCO opened the meeting on behalf of COM and welcomed participants for the second time in the Group's extended format of 45 members. He stressed the importance of exchange of views on SANCO's overall work and the role of the Advisory Group in this respect. He asked for visible and open support of the Group to SANCO in making necessary and useful changes with added value in the legislation.

Comments and questions raised

In response to FEFAC's request for SANCO's view on the action plan on food waste announced by DG ENV, COM confirmed that SANCO sees this as a priority in its work, as a horizontal issue where SANCO is undoubtedly one of the main partners.

The Agenda was approved, together with the minutes of the previous meeting of 14 March 2011.

2. New comitology regime and experience gained by the Appeal Committee

COM gave an update on the new comitology regulation and the first experience by the Appeal Committee as a second level of control. DG SANCO has been the first DG (and so far the only one) to refer draft measures to the Appeal Committee. COM also provided information on searching for relevant documentation on the comitology website.

Comments and questions raised

COM clarified for FEFAC the nature of the measures of SANCO that were referred to the Appeal Committee. The first meeting of the Committee concerned a draft measure in the area of plant protection products concerning the non-approval of the active substance asulam. The second meeting concerned a package of 4 draft implementing acts in the area of pharmaceuticals. In both cases, the opinions of the scientific committees were confirmed by the Appeal Committee. A third meeting of the Appeal Committee with regard to draft acts in the area of plant protection products is scheduled to take place at the end of November.

COM replied to FEFANA's more general question on how the new comitology will be implemented. COM stated that SANCO has already committed itself to review the existing

acquis containing references to the 'regulatory procedure with scrutiny' (PRAC) by 2012 with the objective to have all *acquis* aligned by the end of this parliamentary term. Where measures amend or supplement the basic act, *i.e.* annex to a basic act, these measures will be subject to delegated acts. On the other hand, where measures are meant to purely give effect to the rules established in a basic act, these will be subject to implementing acts. The Commission's views on the distinction between implementing and delegating acts are further explained in the Commission's Guidance on delegated acts, which has been made public.

In answer to a question from COPA-COGECA on the alignment process, COM clarified that the alignment of the SANCO *acquis* is only at an early stage of the process and as there are some broader legislative revisions scheduled for the near future, they will be aligned together with those revisions. COM explained that there are no figures or statistics indicating the adaptations to delegated or implementing acts. The alignment exercise depends very much on the structure of the basic act, which will be viewed on a case-by-case basis and will be subject to the agreement of the two legislators, *i.e.* the Council and Parliament.

3. Best practice examples in Member States - Consultation document compiled by the High Level Group of Independent Stakeholders on Administrative Burdens ('Stoiber Group')

COM briefly presented the Stoiber Group as a temporary advisory body with 15 members representing various stakeholders advising the Commission on administrative burdens, as well as provided information on best examples per priority area received by Member States. COM further informed on the drafting process based on consultation with stakeholders, adoption of the report and further steps.



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Comments and questions raised

On the question from UEAPME on whether there are any examples in the area of food where regulations are either "gold-plated" or not implemented at all in the Member States, COM replied that gold-plating is addressed more generally not only with regards to implementations.

COM assured FESASS that within the Group there was an extensive discussion on gold-plating and in the report by the Stoiber Group there will be general recommendations to Member States regarding gold-plating.

At the request of ECPA, COM clarified the difference between green and white examples as an indication/guidance to stakeholders. Green were indicated as being very good examples, with sufficient information, potentially to be used in the report. White examples were difficult to judge whether best practice was followed or not due to lack of information.

4. The State of play of the Commission's proposal regarding the reintroduction of processed animal proteins (PAP) derived from non-ruminant animals into feedingstuffs for farmed animals

COM presented the perspectives on the re-authorisation of processed animal proteins (PAP) derived from non-ruminants into the feed chain. Bearing in mind the risk level, scientific opinions, and improvement of the epidemiological situation, COM prepared a second road map proposing methods for re-introduction of PAP from non-ruminants into the feed chain for pigs, poultry, and fish stressing that cross contamination and "cannibalism" must be avoided. COM explained that the second road map ensures that future changes are based on scientific advice and bear in mind public health protection. COM underlined that the following conditions must be fulfilled: control tools based on PCR test methods must be available and carried out at each step of the production chain, single species approach via a strict spatial separation of the production line, as well as strict labelling requirements. COM pointed out that no tolerance level is foreseen as there is no quantitative test available and that the lifting of the feed ban for ruminants is not envisaged. COM also informed about future steps and further timing. Depending on Member States' opinions, a text could be voted on in early 2012 and adopted during the first half of 2012.



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Comments and questions raised

FESASS supported the development of the legislation in this area, underlining that its implementation must be done under strict safety conditions. FESASS pointed out the importance of cross referencing with the animal health law, stressing the responsibility of the various operators; the lax approach must not be allowed. FESASS suggested that it would be better to express the number of cases presented on the graph as a percentage of the overall herd rather than as the number of cattle infected. COM replied that the latter is easier to understand but the overall number of cattle might be added to complete the picture.

EFPPRA suggested the use of any available ruminant test which is all that is necessary for safety purposes, although such a test might not be fully implemented in MS. As processed animal proteins are used globally, with many countries having only a ruminants-to-ruminants ban, re-authorisation should be approved in Europe as soon as possible in order not to discriminate EU producers.

AVEC supported the EFPPRA comments and pointed out that as a common understanding of acceptance and safety has been reached, the measures should be quickly implemented.

COPA-COGECA stressed that the safety aspect is of paramount importance and that the PCR test must be available and reliable. It pointed out that zero tolerance might undermine the feasibility of putting the measures in place. Draft motion of COPA-COGECA concerning this area has been distributed.

FEFAC expressed concerns about cross contamination, mentioned some incidents of cross contamination with vegetables and that carry over might be inevitable. In a robust control system, limits are needed as absence of any tolerance might be an obstacle. FEFAC asked COM to consider the development of quantitative tests.

COM clarified that to avoid cross contamination or carry over, the segregated production lines represent the only way at the moment, although it is costly. Possible quantitative tests are not foreseen in the near future. COM stressed the importance of consumers' acceptance, as well as the fact that the new provisions cannot be imposed on Member States.

BEUC commented that consumers are concerned since the ban was the key measure to avoid spreading the BSE disease in the EU. BEUC underlined that a number of control measures must be implemented and stressed the need for greater discussion. BEUC also touched on the problem of labelling provisions and asked whether it is envisaged to mention on labels that animals were fed by processed animal proteins.

UECBV pointed out that the negative attitude of Member States is mainly caused by the non-existence of adequate control system, lack of economic interest, and negative consumers' perception, although in the case of consumers, it is more lack of information as meat from animals fed by PAP has been imported into the EU market from third countries.

CLITRAVI stated that there is no obligation to take part in the scheme when adopted. Only operators able to comply with provisions will be able to follow it. CLITRAVI stressed that the huge demanding market in the third countries should not be neglected.

COM replied to BEUC that the provision on labelling is not envisaged. In fact, as already mentioned, currently it is possible to import the meat from animals fed by PAP from the third countries and no reference on this is on labels. COM also highlighted that the proposal would reduce the differences in terms of competitiveness between EU operators and operators from third countries, who are currently operating under non-equal standards.

5. Review of the Presentation on the outcome of the questionnaire in view of an impact assessment on a revision of the hygiene package

COM gave a presentation on the outcome of the questionnaire which was prepared in view of an impact assessment. In particular, information needs to be collected on the possible economic impact and on the positions of Member States and stakeholders. COM presented in detail the responses to individual questions. COM reminded that an additional short questionnaire concerning the applicability of Regulation 853/2004 to retailers has been sent for stakeholders' input by 1 December. In principle, retailers are derogated from Reg. 853 except if they deliver to other retail establishments or if they do certain processing (with further derogation if their activities are marginal, localised and restricted). As there are some indications that bigger retail establishments might misuse this derogation, to avoid unfair treatment, COM prepared an additional questionnaire to obtain stakeholders' views on this issue.

COM informed that a technical working group meeting on the review of the hygiene package is planned for the beginning of 2012.



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Comments and questions raised

EUROCOMMERCE pointed out that the application of Reg. 853/2004 to retailers is a fundamental question of high importance for their sector and as they need to consult members

of association, the time is too short. EUROCOMMERCE asked why this important issue was not included in the original questionnaire.

UGAL supported EUROCOMMERCE and underlined that retailers were not supposed to be included in the review and their addition at the last moment is an example of bad practice in terms of the consultation procedure. UGAL stressed that EU food law should focus on risk and risk regulation and not on economic issues, and on division of competitive advantages or disadvantages among stakeholders/operators in supply chain. The requirements retailers must meet under Regulation 852 are adequate and provide a sufficient level of protection.

AVEC explained why there are differences in the costs of vets indicated by stakeholders in comparison to those given by Member States and mentioned that it would be very helpful to know how individual MS replied to the questionnaire. COM replied that it must check whether it is possible to disclose data on individual MS positions.

COM agreed that the time is short but there is a certain time pressure so rapid progress is needed. COM explained that the application of Reg. 853/2004 for retailers came up during the internal discussion and as the matter is important it has been decided to go back to stakeholders with an additional questionnaire. It is difficult to find a balance between proportionality, inconsistent risk/competition, so information from stakeholders on this is very much welcome and will be taken into account.

6. Food waste minimisation

COM gave a presentation on reducing food waste in the context of its efforts to improve the sustainability of the food chain. It pointed out that all actors of the food chain are involved in generating the significant amounts of food waste, including primary production and manufacturing, retailers/wholesalers, households, and caterers. COM presented actions undertaken by Member States. It underlined that priority should be given to the prevention of food waste and to transforming it into a resource. COM informed on activities at EU level how to minimise food waste without compromising food safety and underlined the importance of prevention, raising awareness and the exchange of best practices with Member States. The EP is preparing a report on food waste in which it is proposed to designate 2013 as the year against food waste.



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Comments and questions raised

UGAL supported the initiatives undertaken, and stressed that retailers are keen to eliminate the food waste at their level. The research carried out by the Commission showed that retailers are responsible for a small part of the overall amount of food waste. UGAL pointed out the absence of focus in EU legislation, as for example, the hygiene package or common product market standards can create a negative incentive to efforts to eliminate food waste. So different issues of wider scope should still be examined.

CELCAA commented that at the wholesale level, with regard to import - export there are problems of damaged goods, perishable goods. A common language on the food chain is needed; it is important to address differences between hazards and risks and the perception of risk at consumer level.

FEFAC came back to the transforming of food waste into feed or energy recovery. Transforming food waste into feed is a sensitive borderline issue; there have been several incidents in the past. Specific activities by SANCO to address the line between food and feed legislation and environmental legislation are welcome. Communication between environmental authorities and food safety authorities should be improved in Member States.

CEFIC stressed that combating food waste should not compromise food safety; hygiene conditions must be met.

FESASS asked for the indicative figures for inevitable food waste and why the amount is still increasing despite the various efforts that are being made. FESASS would like to know what the position of Europe is in comparison to the US or Japan and also if food waste is reduced and the additional food is available, how this would affect the market and prices.

UEAPME commented that food waste reduction in Europe would not affect the world hunger problem.

COM replied that even in Europe hunger is a problem and gave an example of the Brussels food bank which redistributes surplus food to charity and is facing problems securing enough supplies. COM further explained that data on food waste are not very robust and reliable; there is still no clear definition, no harmonised methodology to calculate the amounts of food waste; therefore an important part of the action plan will be to improve the data in order to be able to measure progress. COM agreed that there is still a lot of work to be done on legislation, but stressed that the current priority is to raise awareness and exchange of best practices. COM assured the Advisory Group members that DG SANCO is working in close collaboration with DG ENV.

COM proposed to organise a working group on this topic, where the issues can be discussed in detail. The proposal was supported by stakeholders. FESASS suggested inviting representatives of local and regional authorities who are decisive actors in the food waste management. COM thanked FESASS for the suggestion and will invite stakeholders to propose additional relevant participants before sending the invitation to the working group meeting.

7. Environmental Risk Assessment (ERA) of genetically modified (GM) plants: Summary of comments received

COM thanked stakeholders for the comments received during the consultation on the EFSA environmental risk assessment guidance document on GM plants carried out during the 1st half of 2011. A total of 10 stakeholder organisations sent their comments, some of them in the name of several organisations. A short update on the received comments was given. The comments are important in the ERA guidance document drafting process of COM and will be considered together with the comments received from Member States. Further involvement of EFSA is envisaged where applicable.



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Comments and questions raised

FoEE asked which critical elements were identified. COM did not specify, since it is still at the beginning of the drafting process, but highlighted that any critical element would also be discussed with EFSA.

EUROPABIO asked if flexibility will be kept for a case-by-case evaluation. COM confirmed this since it is required by Directive 2001/18/EC.

8. Introduction/ State of play of GM animals in the EU Presentation of Pegasus project (Public Perception of Genetically modified (GM) Animals – Science, Utility and Society) interim report

COM gave a short introductory presentation on the EU legislation on GMO and introduced the Pegasus project. This project focuses on research on the public perception of GM animals and foods and pharmaceutical products derived from them, as well as on different factors determining consumer and society responses to food technologies. The project leader explained the methodology used: mainly data collection through collating all the literature written in English using a systematic review process, including quantitative and qualitative studies and highlighted the main findings. Examples of case studies were also presented.



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Comments and questions raised

FoEE challenged the outcome of the project referring to Eurobarometers showing increasing concern/rejection of the use of GM plants by consumers, stressing there is no market place for GM animals and that SANCO should not promote implementation of GM animals and food derived from GM animals. FoEE also requested the impact assessment on the complete food sector, and on the whole of European society. It pointed out that at present there are more pressing and unsolved problems which should be given attention and discussed instead.

FESASS underlined that the market is global and the developments are more advanced in third countries, so it is important to have a clear EU legal framework prepared concerning import permits, marketing, traceability, labelling, and export to be able to react to possible future problems. In this respect the Pegasus project is a very good start.

CLITRAVI pointed out that political directions regarding GMOs should not be discussed in this forum, but stressed that taking into account the competition and trading with third countries we can not ignore this area; we should look at all the aspects, but remain very cautious.

COM explained that the purpose of the project presented is not to promote GM animals but to examine the ethical and economic concerns and consumers' views and perception and stressed that most of the project activities focus on ethical issues. The project should be understood as a preparation for the future.

On a question from FoEE on how the coexistence impact (GM and non-GM animals) will be regulated in GM legislation, COM pointed out that as we are still at the very beginning of the process, the question cannot be answered at present.

9. Follow-up on Food and Veterinary Office recommendations and country profiles

COM made a presentation on the role of unit F1 (country profiles, coordination and follow-up) in delivering the Food and Veterinary Office (FVO) objectives to ensure systematic and effective follow-up to FVO recommendations and to monitor progress through general follow-up audits. COM explained that country profiles are a compilation of key information to support Commission monitoring and enforcement activities on food safety, animal health, animal welfare and plant health in the MS. They help to identify the main strengths and weaknesses of national control systems and assist overall prioritisation. The web format of the country profiles contains, for each Member State, five elements. The main elements are the follow-up status of progress made in the implementation of FVO recommendations and a description of the control systems.



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Comments and questions raised

UGAL and AVEC asked for an explanation why country profiles of third countries are not available on the FVO website. COM explained that such a decision has been taken by the FVO and clarified that, in any case, it would require the authorization of third countries to publish this information. COM confirmed that the country profiles of the main trading partners are internally available and the request of stakeholders to publish this information will be forwarded to the hierarchy. CELCAA and FESASS supported the request.

COM clarified that the FVO's main priority is to include in the country profiles the results of the follow-up and the assessment of open recommendations. The description of the control systems is mainly drafted by Member States and FVO oversees the process.

In response to FESASS' question on how long it takes on average until an FVO recommendation is closed, COM underlined that in some cases the recommendations are closed, but re-opened later due to a change in the MS legislation, authorities, competencies or due to a deterioration in performance. Enforcement actions are taken if recommendations are marked as "action still required". Audits take place usually once or twice a year, so the latest updates are available on the website under "country profiles" and in the subsequent sectoral reports.

On FEFAC's question on whether there is an intention to link multi-annual control plans with country profiles and annual reports, COM underlined that these reports are used for the preparation of FVO audits. The FVO is working with the Member States in order to ensure that the information included in the annual reports is consistent across Member States.

10. Feedback from the working groups meetings

10.1 Review of Regulation 882/2004: update on the review of the rules governing the financing of official controls, and feedback from the working group meeting.

COM gave the feedback from the working group meeting held on 19 September on the review of the EU system of official controls, in particular on the rules governing the organisation of official controls and the financing of official controls.



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Comments and questions raised

CLITRAVI reiterated their request to access the conclusions of the GHK consultancy report. COM explained that the presentation given in the meeting, although not explicitly focused on the conclusions of the GHK report, summarised Advisory Group reactions to the options selected on the basis of the GHK consultancy report.

Responding to CELCAA's question on whether there are further targeted consultations planned, COM explained that during the consultation, COM informed the stakeholders about the key issues examined, shared with them the available options, and asked for their feedback in meetings such as this one and through other routes. COM is now preparing the impact assessment; therefore, no further consultation will be carried out at this stage. COM will summarise all input received and take a decision about the option to be followed.

FEFANA was of the view that COM is still very vague and too general about what the review will be about and asked at which stage they will receive concrete ideas that they can comment on.

UEAPME highlighted that they were not consulted by GHK and asked for this to be recorded in the minutes. COM informed UEAPME that GHK had used the Advisory Group Membership list as one of its bases for identifying stakeholders, so they should have been consulted. COM agreed to look into this further.

UGAL asked whether the GHK report will be available in future and at which stage of the process. They also asked COM to confirm that it was a summary of data rather than a document of recommendations.

At the request of FESASS, COM further clarified that it is now preparing a view on *bonus malus* and will be taking into account the responses from Advisory Group members.

10.2 Animal Health Advisory Committee

COM gave a short oral presentation on the Animal Health Advisory Committee as a regular working group of the Advisory Group meeting 3 times annually. COM highlighted the main topical issues discussed in the meetings, mainly animal health strategy, latest animal research elements, animal health law, veterinary medicine and antimicrobial resistance. Copies of agendas and summary records of the meetings held in 2011 were distributed to the participants and they were informed that all these materials can be downloaded from SANCO Web where much more info is available (e.g. the presentations embedded into the agendas and summaries:

http://ec.europa.eu/food/animal/diseases/strategy/animal_health_advisory_committee_en.htm

10.3 Court of Justice ruling on MON810 Pollen in honey

A brief presentation of the Court of Justice ruling of 6 September 2011 was given explaining that as a result of Court ruling, pollen in honey are considered as an ingredient and thus must be subjected to the GMO legislation (authorisation and labelling).

COM then summarised the main views and concerns of stakeholders expressed during the working group meeting about this ruling and its possible impacts on their commercial activities. The main concerns were related to labelling, analytical methods, authorisation status of MON810 pollen, co-existence, and possible contradictions between different legislations, liability and compensation concerns.

COM informed the Advisory Group about the EFSA statement on MON810 that MON810 pollen is as safe as non-GM maize pollen and on the procedure for submitting the application, and what type of data should be included.

CELCAA asked whether allergic labelling on pollen is needed. COM replied that as pollen is regarded as an ingredient, provisions of the Directive 2013 on general labelling, as well as GMO legislation labelling rules are applicable.

FoEE stressed that this ruling has great impact on how the GMO legislation is implemented, so would like to know how COM will react. FoEE touched also on the problem of the coexistence rule and asked when its implementation is expected.

EUROCOMMERCE expressed interest in knowing the next steps COM intends to take, whether there are any further meetings with MS or stakeholders planned to discuss such issues as labelling or the 0.9 % threshold and other consequences.

COM explained that the coexistence rule is under MS responsibility. Regarding further steps, COM informed that reflections are still ongoing and no decision has been taken yet. COM is still discussing with MS how to tackle this issue. DG SANCO is working in close collaboration with other DGs to have a harmonised approach to the ruling and to assess together the impact of the ruling.

At the request of EUROPABIO, COM gave more information on JRC - Argentina cooperation on harmonisation of the method of extraction and detection.

FOODDRINKSEUROPE commented that the Court ruling, in fact, obliges the operators to breach the honey legislation. FOODDRINKSEUROPE asked whether pursuant the labelling rules it has to be specified where the pollen has come from and in which amount. Since the bee sector is very specific and producers collect honey from various beekeepers, FOODDRINKSEUROPE would like to know how COM sees the implementation of the ruling.

Concerning the intra-European impact, COM confirmed to FoEE that some MS stopped importing from some GMO-cultivation countries, but no specific details are available. FoEE pointed out that implementation of the public register by Member States would be very helpful for stakeholders in the food chain and it would allow bee keepers to obtain a certificate if they can prove there are no GM fields where their hives are. It would also help to cut unnecessary testing.

COM reassured the Advisory Group that all options are being examined, but no specific feedback on future measures can be given at the moment as it is still too early in the process.

10.4 Article 13 Health Claims

COM gave a brief feedback from the working group held on 4 October 2011 on implementation of Regulation (EC) No 1924/2006 on nutrition and health claims, in particular the adoption of the list of permitted health claims. These are health claims subject to Article 13(1) on nutrition and health claims made on foods which have received a positive opinion from the European Food Safety Authority (EFSA). COM informed that also health claims with non-positive opinions will be referred to in the Union Register, including the reasons for rejection. COM stated that Member States expressed a number of concerns, including, inter-alia, claims contradicting national dietary recommendations, claims with no conditions of use, and claims requiring disclaimers. COM concluded the presentation with the next steps, presently focusing on internal consultation, draft legal measures, draft annex with the list of permitted health claims to be presented to Member States for discussion and the potential vote of the Standing Committee at its meeting on 5 December 2011.

11. Code of Good Practice in Consultations

COM presented the Code of Good Practice in Consultations endorsed by the Stakeholder Dialogue Group and adopted by SANCO's Management Committee on 13 October 2011. COM underlined that the Code is applicable to all consultations, but it does not override the Rules of procedure of the Advisory Group. COM informed that later on an evaluation will be put in place to see how stakeholders rate the Code.

12. Impact assessment on the possibilities of establishing fees for EFSA to process authorisation dossiers

COM informed on the ongoing impact assessment on the possible establishment of fees for EFSA and related aspects. COM gave an overview on the impact assessment process, as well as on stakeholders' consultations planned and future steps. Stakeholders have received a questionnaire on socio-economic data gathering asking for their input by 30 November 2011.



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13. Any other business

COM informed stakeholders that a new Comitology planner will be published at the beginning of next year and they will again be invited to indicate on which issues they would like to be consulted.

COM will consider the request by several members to organize a working group meeting on antimicrobial resistance (AMR).

COM informed on the indicative dates of plenary meetings in 2012: 16 March and 16 November. COM encouraged the stakeholders to send proposals for the next plenary meeting agenda points to AG secretariat.

COM thanked all the speakers, stakeholders and interpreters and closed the meeting.