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

Summary Record

14 MARCH 2011

1. Welcome and approval of the Agenda

The COM welcomed participants and apologized for the unavailability of Mr Ladislav Miko, Deputy Director-General, to open the plenary meeting.

Following a call for expressions of interest in membership of the AG, the COM presented the names of the 9 selected additional members. There is no change to the status of the current 36 members of the AG. The 9 new members were invited as observers with speaking rights, as the Commission Decision about their appointment is under adoption. Once the procedure has been finalized all applicants will be notified of the outcome. The following 9 organisations have been selected:

AESGP	Association of the European Self-Medication Industry
ECVC	European Coordination Via Campesina
EHPM	European Federation of Associations of Health Product Manufacturers
EUWEP	European Union of Wholesale with Eggs, Egg Products and Poultry and Game
FEFANA	EU Association of Specialty Feed Ingredients and their Mixtures
FoEE	Friends of the Earth Europe
PAN EUROPE	Pesticide Action Network Europe
PFP	Primary Food Processors
SLOW FOOD	Slow Food Associazione Internazionale

The new members attending the meeting briefly presented their organisations.

The Agenda was approved.

2. Update on the New Comitology Regime



COM explained the new regime on delegated and implementing acts post-Lisbon.

Comments and questions raised

The role and function of the Appeal Committee raised many questions.

COM clarified for CELCAA that recourse to the Appeal Committee is one of the 3 options under the examination procedure. In case of no opinion with respect to a draft implementing act relating to the protection of the health or safety of humans, animals or plants, COM may decide not to further pursue the adoption of the draft act. However, if the implementing act is deemed to be necessary, COM may either submit the same draft to the Appeal Committee within 1 month of the vote or submit an amended version of that act to the same committee within 2 months of the vote.

COM replied to CIAA that according to the Statement by the European Parliament, the Council and the Commission accompanying the new Regulation on implementing acts (OJ L 55, 28.2.2011, p. 19), when there is a positive opinion, COM is required to adopt the draft implementing act (Article 5(2) of the Regulation). However, this provision does not preclude that COM may, as is the current practice, in very exceptional cases, take into consideration new circumstances that have arisen after the vote and decide not to adopt a draft implementing act, after having duly informed the committee (composed of representatives of MS, chaired by COM, as in Decision 1999/468/EC) and the legislator. The Appeal Committee is only initiated in the cases of a negative opinion or no opinion with respect to draft implementing acts relating to the protection of the health or safety of humans animals or plants. The Appeal Committee considers the draft measure as it was originally voted in the committee.

COM explained to FEFANA and IFOAM EU that the Appeal Committee is a virtual entity composed of all MS representatives, chaired by COM. The level of representation from MS will be decided on a case by case basis. At its first meeting on 1 April 2011, the Appeal Committee will adopt its rules of procedure. COM will report at the next Plenary Meeting on the experience gained by the Appeal Committee. COM also specified for FEDIAF that at the Appeal Committee it would still be possible to make amendments until an opinion is delivered (Article 6(2) of the Regulation).

FESASS and COPA-COGECA asked for clarification on the consultation of experts on delegated acts. COM clarified that it prepares delegated acts and decides on the experts to be consulted. The Treaty has given COM the flexibility of consultation. COM gave a commitment in its Communication on delegated acts to systematically consult experts from the national authorities of all Member States, but it may also wish to consult other experts and stakeholders. This consultation would not take place in cases where the preparatory work on delegated acts does not require any new expertise (e.g. amendment of an annex due to an oversight, provided that the basic act has been aligned to the Lisbon Treaty).

To a question raised by COPA-COGECA regarding the right of opposition, COM explained that according to the standard templates laid down in the Common Understanding between the three institutions, a period of two months is allowed, with the right of extension by two additional months if one of the legislators so requires .

COM also clarified for FEFANA that current qualified majority rules would apply until 2014, according to the Lisbon Treaty.

COM reassured FVE that the Comitology Planner, which alerts stakeholders to consultations on policy initiatives that are subject to 'comitology' procedures, would not be influenced by the new comitology rules.

IFOAM EU raised concern about transparency which COM felt were unjustified as the comitology register would continue to operate in the same way as before and the procedures governing the adoption of implementing acts (including voting rules and the role of the Appeal Committee) are defined in the new Regulation on implementing acts.

3. The review of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules



COM gave two presentations, one on the overall structure of the review of Regulation (EC) No 882/2004, the other focusing more specifically on the review of the provisions on financing of official controls (Regulation (EC) No882/2004 Articles 26- 29). Given the large interest in the topic COM undertook to present it again in the next plenary meeting of the Advisory Group.

Comments and questions raised

EUROGROUP FOR ANIMALS raised concern that animal welfare was not reflected in the revision of Regulation 882. It also pointed out that Article 55 on sanctions should also be reviewed in this context. COM explained that the exercise involves several sectors, including animal welfare. To achieve a result fitting the purpose of all sectors, a DG SANCO Task Force has been established to discuss the review of Regulation 882 with all concerned. COM also explained that the review will mainly consist of a recast exercise. In this context, any substantial change to Article 55 on sanctions would not be possible.

Transparency on expenditure was also highlighted as an important issue.

COM clarified that administrative assistance and cooperation would be one of the chapters to be addressed by the review in order to improve it as a tool for bilateral cooperation in investigations.

Following a comment from FEFANA, COM explained that indeed there is a clear link between Regulation 853, dealing *inter alia* with own checks performed by business operators, and Regulation 882 official controls carried out by MS competent authorities, as they both contribute to the achievement of the objective of food safety. For this reason, the two systems should continue to work in parallel.

ESA made a recommendation that official supervision should be compulsory with the review of the legislation.

COM informed the AG that the four proposals were foreseen for adoption in 2012 according to the Commission's 2011 work programme. COM replied to CIAA and FEFAC that the General Food Law and the hygiene package would not be touched by the review of Regulation 882. To a concern raised by EUROGROUP FOR ANIMALS regarding transparency, COM replied that article 7 will be addressed in the recast of Regulation 882.

4. The state of play of the revision of the plant health legislation



COM presented the progress of the review of the EU plant health regime. Following the publication of the report of the evaluation, a conference was organised on 28 September 2010 with the stakeholders and the Member States. A consultation on the recommendations from

the evaluation had been linked to the conference, with particular focus on the definition of the scope of the impact assessment. Following the conference, options for the future were further discussed with the Member States and, on 18 February 2011, with the stakeholders in the ad-hoc Working Group on Plant Health under the Advisory Group. A new round of consultations was ongoing, linked to the latter meeting. Stakeholders have been consulted for the economic study currently being undertaken by the Food Chain Evaluation Consortium that would feed into the impact assessment. The legal proposal, accompanied by the impact assessment, is scheduled for the first semester of 2012 and would be part of a package with the recast of Regulation 882/2004, the new animal health law and the new seed and propagating material law.

Comments and questions raised

ESA and COPA-COGECA stressed the importance of public-private partnership in the implementation of the plant health regime, allowing involvement of private operators under official supervision. Both organisations requested COM to set up a permanent formal consultation platform for plant health under the Advisory Group.

COM was also requested to solve the existing problems with re-export.

COM would carefully investigate the issues raised by ESA and COPA-COGECA and would come back on the permanent consultation platform to be created.

5. Review of the legislation on the marketing of seed and plant propagating material



COM gave a presentation on the review of the legislation on the marketing of seed and propagating material and in particular on the various scenarios for review that would be the subject of a 6-week stakeholder consultation via the dedicated pages of the SANCO website.

Comments and questions raised

IFOAM highlighted the importance of fostering biodiversity and of the need to ensure that the legislation does not constitute a hindrance for varieties that are particularly well adapted for organic farming to get access to the market. COM replied that specific Directives have been adopted in recent years to facilitate the marketing of conservation varieties, landraces and varieties with no value for commercial crop production but developed for specific growing conditions. Whilst certain scenarios do not change the approach to this, one of them has an option whereby the marketing would be possible on the basis of a description made by the supplier, without official testing for distinctness, uniformity and stability. ESA underlined the importance of equal treatment of varieties, irrespective of the organisation that bred them. Also, accepting varieties without any testing for agricultural value would be inconsistent with the need to move to varieties that have demonstrated potential for being produced in a sustainable manner, without high needs for chemical fertilizers, irrigation or pesticides. COM underlined that most of the scenarios indeed try to use the seed and propagating materials marketing legislation to steer breeding efforts in that direction.

6. A Communication from the Commission to the European Parliament and the Council on the future necessity and use of mechanically separated meat in the EU including the information policy towards consumers



COM presented the communication on the future necessity and use of mechanically separated meat in the EU including the information policy towards consumers.

Comments and questions raised

CLITRAVI commented on the definition of mechanically separated meat (MSM) and how to interpret it especially regarding the difference with minced meat. COM explained that in low pressure MSM there is no loss, but a part-modification of the muscle fibre structure compared to minced meat. As a first step the Legal Service has been asked to clarify the existing definition in the legislation since it has been seen that it is not interpreted equally by all MS. Based on this advice, guidelines could be made to clarify the definition and to ensure a harmonised interpretation. If needed, an amendment of the definition might be envisaged. Regarding the guidelines, COM pointed out that after receiving feedback from the Legal Service it would also consult MS and stakeholders.

COM pointed out that it has to further look into the inclusion in the MSM legislation of the method of recovered meat after cooking.

COM ensured CLITRAVI that it would take into account the research provided by Histalin when further looking at the wording of loss or modification of muscle fibre structure.

7. Environmental Risk Assessment of GMOs



The on-going work of COM on environmental risk assessment of GM plants was presented to stakeholders, including some background information on the mission and areas of activity of the unit involved.

A legally binding text on ERA is envisaged by COM, based on EFSA's ERA guidance document published in November 2010.

During this process of implementation stakeholders will be consulted for comments.

The official process started on 7 March 2011 when COM invited Stakeholders to send their written comments by 15 April 2011. Further consultation is envisaged, but details have not yet been decided.

Comments and questions raised

EUROPABIO pointed out that stakeholders were already consulted by EFSA before the adoption of the ERA guidelines. COM explained that the envisaged consultation process is not focusing on changing the current guidelines, but rather to improve them concerning, for example, data requirements, which need to be clear for the applicants and MS. Moreover the main aim of the guideline is the focus on risk management measures which is a task of COM and MS and not EFSA. COM made it clear to EUROPABIO and ESA that it was not COM's intention to have a long process for the ERA; however, a certain delay would be given

because of the on-going current EFSA activities on comparators assessment and the monitoring guidelines. COM assured ESA that MS supported EFSA's extensive work, but that they have asked for further improvements in certain areas.

COM reminded the Group that data from outside Europe were welcome for ERA, but it was also necessary to have data from Europe.

COM explained to COPA-COGECA that in Europe the time period for authorization is long due to the opposition of MS based on political rather than scientific reasons.

The new legislative text will be based on elements which are already in Directive 2001/18/EC and which need to be further detailed. This would only have an impact on some Annexes of the Directive. The current study on the revision of the GMO legislation has no direct implication on the exercise on ERA.

8. The EU strategy and action plan towards a sustainable bio-based economy by 2020



COM made a presentation on the EU strategy and action plan towards a sustainable bio-based economy by 2020 and invited stakeholders to contribute to the online consultation on http://ec.europa.eu/research/consultations/bioeconomy/consultation_en.htm. The deadline for comments is 02 May 2011. The consultation is intended to provide opportunities for input on the state of play of the bio-economy in Europe, its potential and the need for new action at the EU and MS levels.

Comments and questions raised

DG RTD assured CELCAA that it was aware of the need to make its activities more visible and measures would be taken to improve the situation. It was also explained that an impact assessment would be conducted on the basis of the consultation as more raw data were needed.

9. "High Level Forum for a Better Functioning Food Supply Chain": state of play



COM updated participants on the state of play of the "High Level Forum for a Better Functioning Food Supply Chain".

10. Short presentation of the study on the functioning of the meat market for consumers in the EU



COM made a short presentation on a study on the functioning of the meat market from the point of view of EU consumers.

Comments and questions raised

UECBV expressed an interest to be fully involved in this study. It suggested that the term referring to food and meat quality had to be very carefully defined. Referring to the quality attributes mentioned during the presentation and listed among the "opinion survey" tools at

consumer level, it argued that even origin might be part of a broader definition of food quality and therefore, in order to prevent people expressing opinions deviated by an imprecise concept of quality, particular attention should be paid in formulating questions during interviews.

Despite confirming that the topic was interesting, FESASS said that there were already many studies on the same issue and it wondered what would be the objective and added value of the this one, given also the limited resources from 27 MS. COM explained that the objective is to find out why consumers give a low rating to the meat market compared to other markets evaluated using similar indicators. As there are indications that the meat market is not functioning well for consumers, it wishes to assess the reasons and look into what EU policymakers could do in order to improve the situation.

COM clarified for CLITRAVI that the study involved only fresh meat and meat products.

11. Enforcement, its role in a competitive food industry

COM made a presentation on the key role and function of the Food and Veterinary Office (FVO), which is a directorate of DG SANCO, located in Ireland.

The FVO has both enforcement and policy roles. Its primary role is to see that the food safety, animal health and plant health legislation of DG SANCO is correctly implemented and enforced in the Member States, as well as to check how effective this legislation is. It is essential to ensure that the single market can work on a safe basis in the area of trade in food and food products. With respect to trade with third countries, the EU has to respect its obligations under the WTO SPS Agreement.

The FVO carries out around 250 audits per year in the MS and third countries. The task of these audits of the systems in place in the MS is to credibly assert that the products produced within the MS are safe and can be safely traded. On the ground inspections are involved in the audits. The FVO publishes reports with recommendations on the basis of the findings of the audits. As to third countries, the dimension is to take safeguard measures if there is not sufficient compliance with safety requirements.

The emerging trends that will have an impact on FVO's future work:

- Trade with third countries:

There is an increased emphasis in recent years on more controls on imports. This trend indicates the relatively good situation in the MS. The legislation implemented in the last ten years in the EU has had an impact and impressive progress has been made in almost all MS.

More disquieting is the pressure from EU stakeholders who are competing with products produced in third countries and under different standards. However, safety cannot be a competitive factor as all products on the EU market must be safe, irrespective of origin;

- COM requests from FVO to conduct more audit inspections in non-safety related areas such as GMOs, organics and geographical designations;
- Involvement of the FVO in areas supported by EU finding, such as labels supported by the production conditions concerned;
- Private standards;
- Revision of the Food and Feed Regulation (EC) No 882/2004;
- Review of the key legislation on imports of animal products and live animals.

Comments and questions raised

EUROGROUP made a comment that FVO's role in animal welfare is significant. It raised a question regarding the new rules in relation to egg laying establishments after 1 Jan 2012. FVO clarified that it had already conducted inspections and audits and had highlighted the poor level of compliance in MS with their obligations to phase out battery cages. With this the role of the FVO is largely over and it is up to the policy makers and the political establishments to enforce the new rules. EUROGROUP required explanation on measures envisaged by FVO regarding the lack of enforcement action on animal welfare standards. FVO clarified that it is an obligation to turn to the Court of Justice in case of persistent non-compliance, but highlighted that this is not the most efficient way of dealing with EU MS and quicker, easier and more efficient solutions are sought.

FVO added that it cannot insist on the same level of compliance in third countries in the area of animal welfare as it is not recognised as a trade concern under WTO/SPS. However, several inspection missions have already been conducted in third countries on animal slaughter in relation to the new slaughter Regulation that will enter into force from 1 January 2013 to ensure that third countries are in a position to respect EU's requirements.

In relation to the evolution on the animal health legislation and the new requirements in terms of biosecurity surveillance, FESASS wondered if it was possible to investigate whether these provisions are being implemented in the EU to ascertain any possible distortions of competition between imports from third countries and production in Europe.

FVO explained that it was not possible to anticipate events, but highlighted that the EU would never allow EU producers to be subjected to unacceptable levels of risk. The EU insists on respect of fundamental concepts of biosecurity that apply within the EU.

12. Any other business

COM informed AG members about changes in DG SANCO's organigramme. Two new Deputy Directors-General have been appointed: Mr M. Seychell responsible for Directorates B and C, and Mr L. Miko responsible for Directorates D, E and F. DG SANCO would also be reorganized as from May 2011.

Given the large interest, COM undertook to report on the new comitology regime and experience gained by the Appeal Committee, and on the review of Regulation (EC) No 882/2004 COM in the next plenary meeting of the Advisory Group.

CELCAA and CIAA requested "Guidance of the Rapid Alert system on Food and Feed" to be included in the agenda of the next plenary meeting. Participants were invited to inform the Advisory Group secretariat on any topics of interest to them.

The next plenary meeting is provisionally foreseen for 14 November 2011.