



EUROPEAN COMMISSION

*Brussels, 8.5.2014
C(2014) 3093 final*

*Mr William CASH MP
Chairman of the
European Scrutiny Committee
House of Commons
Palace of Westminster
UK – LONDON SW1A 0AA*

Dear Chairman,

The Commission would like to thank the House of Commons for its Reasoned Opinion on the proposal for a Council Directive on the placing on the market of the food from animal clones (COM(2013) 893 final).

The House of Commons considers that the Commission failed to comply with the principle of subsidiarity for procedural reasons and because it questions the necessity of the measure.

Concerning the alleged failure to comply with essential procedural requirements, the House of Commons argues that each proposal should be supported by a separate impact assessment, as, in its view, otherwise it would be difficult for national Parliaments to discern which of the qualitative and quantitative factors advanced by the Commission support subsidiarity compliance.

Article 5 of Protocol No 2 annexed to the Treaties does not provide for such a requirement. It simply states that any legislative act should contain a detailed statement making it possible to appraise compliance with the principle of subsidiarity. The Commission considers that the statement made on subsidiarity in the explanatory memorandum in connection with the other explanations contained therein is sufficient. Moreover two proposals were necessary because the legal bases of the proposals refer to different adoption procedures. It was thus not possible to propose one measure on the subject.

Concerning the alleged failure to demonstrate the necessity to regulate at EU level, the Commission reiterates that its 2008 proposal¹ to streamline the Novel Food Regulation failed in March 2011 because the Parliament asked for far reaching measures on cloning to which

¹ COM(2007) 872 final Proposal for a Regulation of the EP and Council on novel foods

the Council could not agree to. Thereafter, on various occasions the European Parliament asked the Commission to prepare a legislative proposal on cloning in food production. As a result such a proposal was included in the pertinent Commission Work Programme.

The House of Commons argues that there is no need for the legislation because the Novel Food Regulation would already provide for a legal framework to regulate food from clones. The Novel Food Regulation, however, can only address food safety concerns.

The House of Commons also suggests that Council Directive 98/58/EC on minimum welfare standards for animals bred or kept for farming purposes would provide a sufficient legal framework for Member States to act. This issue, however, is addressed in the Explanatory Memorandum and recitals to the Proposal for a Directive on the cloning of animals of the bovine, porcine, ovine, caprine and equine species kept and reproduced for farming purposes (COM(2013)892 final). It is not relevant for the Proposal for a Council Directive on the placing on the market of the food from animal clones (COM(2013) 893 final since Council Directive 98/58/EC does not address the marketing of food.

The House of Commons reiterates that there is no trade in food from animal clones in the Union. In the case of food from clones the Commission considers it however appropriate to develop a uniform approach on the marketing of such food across the EU, even before such trade may occur, as otherwise Member States could take individual measures which would in all probability be very different from each other and thus soon call for harmonisation.

The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council at which your government is represented.

The Commission hopes that these clarifications address the concerns and issues raised by the House of Commons and looks forward to continuing our dialogue in the future.

Yours faithfully,

A handwritten signature in black ink, consisting of a large initial 'T' followed by several smaller, connected loops and a final horizontal stroke.

*Tonio Borg
Member of the Commission*