

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 999/2001 as regards the extension of the period for transitional measures'

(COM(2003) 103 final — 2003/0046 (COD))

(2003/C 208/13)

On 14 March 2003 the Council, in accordance with Article 251 of the Treaty establishing the European Community, decided to consult the European Economic and Social Committee on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 April 2003. The rapporteur was Mr Nielsen.

At its 399th plenary session on 14 and 15 May 2003 (meeting of 14 May), the European Economic and Social Committee adopted the following opinion by 110 votes for, with 11 abstentions.

1. Background

1.1. Regulation (EC) No 999/2001⁽¹⁾ contains rules for classifying Member States and third countries or regions into various categories, determined by the incidence risk of transmissible spongiform encephalopathies⁽²⁾. The Commission categorisation is based on information from the countries and regions concerned and follows assessment by the Scientific Steering Committee. The findings are crucial for the requirements relating to the control of BSE and the import of live animals and animal products. Under the regulation, the rules were to apply from 1 July 2001, with a transitional period until 1 July 2003, by which time the classification was expected to be completed.

1.2. In submitting this proposal, the Commission is seeking to extend the period of transitional measures by a further two years to allow classification to be completed. According to the Commission, it became evident from the assessment of the dossiers of the various countries that some modifications to the criteria were necessary to achieve a more appropriate categorisation, reflecting the BSE risk. These criteria had been established by the World Organisation for Animal Health (OIE). The EU made an unsuccessful approach to the OIE, proposing an amendment. Similarly, the OIE apparently does not intend to meet the request to come forward with a list of

BSE free countries. Moreover, the scientific risk assessments of the various countries have not been concluded as the Scientific Steering Committee has adopted a final opinion for only one third of the countries that have requested one.

1.3. The extension of time is designed to give the Commission an opportunity to submit a new proposal aimed at securing agreement with the OIE on the determination of BSE status based on the Commission's own notion of risk-assessment requirements. These include, for instance, the use of rapid tests. During the extended transition period, the Commission also has to conclude the scientific risk assessments.

2. General comments

2.1. EU cooperation is undermined when, for acceptable reasons or not, the Commission and the Member States continually fail to meet the deadlines they themselves jointly set. That applies not least to the veterinary and health sectors, which make up almost half of single market legislation. This erodes legal certainty and makes it impossible to apply the rules to other parties involved, including in trade with third countries.

2.2. Particularly in the light of enlargement, the Commission and the Member States must be much more aware of the need for realistic deadlines that can, in practice, be met. At the same time, the Commission must fulfil its role as 'guardian of the Treaty' in relation to those Member States that do not comply fully with EU rules or fail to do so on time. As things now stand, it is necessary to extend the transitional period, but it is vital not to defer the deadline again next time, which would only result in added uncertainty.

(1) Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, OJ L 147, 31.5.2001, p. 1.

(2) BSE (bovine spongiform encephalopathy or 'mad cow disease') has up to now been the predominant type of transmissible spongiform encephalopathies (TSEs).

2.3. It has to be said that the prolongation will not affect the level of public health protection since the transitional measures for the removal of specified risk material and for slaughter methods will be maintained both within the EU and in respect of third countries. If the transitional measures are not prolonged, they will, for instance, no longer be binding on Member States.

2.4. Moreover, in a bid to secure greater consistency between EU and worldwide rules, ongoing and constructive dialogue must be established between the OIE and the EU. Drawing on the same scientific bases as those used for risk assessments, it must also be possible, through constructive dialogue, to agree on joint rules for risk management. Should that prove impossible, the EU must accept the consequences and introduce the requisite sets of rules itself regardless of the resultant complications in the WTO for trade with third countries. Lack of international acceptance and time-consuming negotiations must not delay the implementation of those provisions deemed necessary for EU cooperation.

3. Specific comments

3.1. With regard to the geographical risk assessment carried out by the Scientific Steering Committee (Geographical BSE Risk — GBR), Argentina, New Zealand and Brazil are classified as BSE free (GBR I: 'BSE free country or region'), while the USA, Canada and Sweden are listed as countries in which the probability of BSE risks is negligible (GBR II: 'BSE presence is

unlikely but not excluded'). It is however worrying if the risk assessment for third countries is not based on the same testing requirements as in the Member States, including random tests on slaughter animals.

3.2. In the light of the situation that is emerging, the Commission should, even at this stage, consider the possibility of pressing ahead with classification on a revised footing, given both the deficiencies of the current arrangements and the fact that, according to information, the amendments will be necessary in any case.

3.3. All the candidate countries are deemed to have a risk level commensurate with that of the Member States (GBR III: 'BSE presence is likely but not confirmed or confirmed at lower level'). It is vital to secure the final classification of the candidate countries before enlargement, so that any risk factors involved in internal trade in live animals and animal products are completely clear before accession.

4. Conclusion

4.1. Subject to the provisos set out above, the European Economic and Social Committee endorses the proposal to extend the deadline. The Commission should work hard to convince the OIE and to clarify the legal situation regarding TSE control in the EU. In any case, it is vital to finish classifying the countries as quickly as possible. That is also necessary from the point of view of implementing any additional, complementary measures to follow up classification.

Brussels, 14 May 2003.

The President
of the European Economic and Social Committee
Roger BRIESCH