COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 670 final

Brussels, 5 February 1990

Proposal for a

COUNCIL DECISION

on the conditions for granting temporary and limited derogations from specific Community health rules on the production and marketing of products of animal origin

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(presented by the Commission)

EXPLANATORY MEMORANDUM

The Community is called upon to adopt measures for gradual establishments at the internal market over the period to 31 December 1992. In the case of products of animal origin the problem is to reconcile the need for free movement with the need to protect public health.

In pursuit of this aim the Commission has proposed general health rules covering all production and marketing operations.
There will also be specific Community health rules for a number of products, including fresh meat, poultrymeat, game and rabbit meat, meat products, minced meat, meat in pieces of less than 100 grams, meat preparations, fishery products, live bivalve molluscs, raw milk, heat-treated drinking milk, dairy products, egg products, animal fats and rendered products.
In a true internal market these specific Community rules ought to apply to all production whether or not liable to be traded between Member States.

This extension may present difficulties for a number of establishments in operation before 1 January 1992. It appears to be justified, in order to take account of certain local situations or prevent the abrupt closure of certain establishments, to make arrangements for the Commission to grant temporary limited derogations in response to a reasoned request from a Member State. It would also be for the Commission to set the terms of these derogations taking due account of health and control requirements.
It should be noted that the general Community health rules will continue to apply to all production and marketing operations.

This proposal falls under the heading "Application of health standards to national products" in the White Paper timetable.

The Commission proposes the regulatory committee procedure without the "safety net" arrangement for implementing decisions, on the grounds that in this instance there is a need to avoid a break of continuity in management of the veterinary sector. The Commission's general preference for the advisory committee procedure is unaffected.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas products of animal origin are included in the list of products in Annex II to the Treaty; whereas the marketing of products of animal origin is a source of income for a large part of the farming population;

Whereas, to ensure rational development of the sector and increase productivity, health rules applying to production and marketing must be laid down at Community level;

Whereas the Community is called upon to adopt measures for gradual establishment of the internal market over the period to 31 December 1992;

Whereas in pursuit of the abovementioned objectives the Council has laid down specific Community health rules on the production and marketing of products of animal origin, in particular fresh meat, poultrymeat, game and rabbit meat, meat products, minced meat, meat in pieces of less than 100 grams, meat preparations, fishery products, live bivalve molluscs, raw milk, heat-treated drinking milk, milk products, egg products, animal fats and rendered products;

Whereas it is possible that, because of particular circumstances, some establishments will be unable, by 1 January 1993, to comply with all of the specific rules laid down; whereas in order to take account of local situations and to prevent abrupt closures of establishments, arrangements should be made for limited and temporary derogations for establishments in operation before 1 January 1992;

Whereas the granting of derogations from specific Community health rules to certain establishments is without prejudice to the requirement that all production and marketing of products of animal origin conform to the general health rules laid down by Council Regulation (EEC) No ..... of ..... laying down general health rules applicable to the production and placing on the market of products of animal origin and specific health rules applicable to certain products of animal origin[1];

Whereas to forestall any risk of abuse these derogations must be strictly controlled by the Commission; whereas to this end there should be a procedure for close and effective cooperation between the Commission and the Member States within the Standing Veterinary Committee,

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(1) OJ No L

HAS ADOPTED THIS DECISION :

Article 1

For the purposes of this Decision :

1. "establishment" means any premises subject to specific Community health rules where products of animal origin are prepared, processed, wrapped, packed or stored;

2. "product of animal origin" means any product, whether or not processed, derived directly or indirectly from an animal and intended for human consumption.

Article 2

1. A Member State which after a thorough examination of the situation in each establishment considers that certain establishments in operation before 1 January 1992 will be unable to observe certain specific Community health rules on the production and marketing of products of animal origin shall submit a reasoned application for a derogation to the Commission.

2. The application referred to in paragraph 1 must be submitted to the Commission before 1 January 1992 and must give, for each establishment, the following information :

   - the rules in question,
   - the grounds for the application,
   - the duration envisaged for the derogation,
   - the part of its territory affected, if appropriate,
   - the socio-economic impact on local, regional and national production,
   - the number and identity of establishments concerned,
   - the volume of production,
   - the distribution area for the products concerned,
   - the health rules planned,
   - the movement control rules for the products.

Article 3

1. The Commission shall consider the reasons notified by the Member State. It may request any further information needed. If necessary, Commission representatives may make an on-the-spot visit.

2. The Commission may grant a temporary limited derogation as requested, in accordance with the procedure laid down in Article 4. It shall set the general and particular terms of the derogation in accordance with the same procedure.

3. In examining the application the Commission shall take into consideration :
   - essential health and control requirements.
   - essential requirements as regards direct sales on local markets,
   - the geographical situation of the establishments,
   - local traditions,
   - the size of the establishments concerned and their production volume,
   - the nature of the production concerned, including the technology used,
   - the distribution channels for the production concerned,

Article 4

1. The Commission shall be assisted by the Standing Veterinary Committee set up by Council Decision 68/361/EEC(1), hereinafter called the "Committee".

2. Where the procedure laid down in this Article is to be followed the following provisions shall apply.

   The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

(1) OJ No L 255, 18.10.1968, p. 23

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken.

The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, For the Council

Task Force PME

FICHE D'IMPACT SUR LA COMPETITIVITE ET L'EMPLOI

I. Quelle est la justification principale de la mesure ?

Avoir la possibilité de donner, à la Commission, le pouvoir d'accorder, à certains établissements des dérogations limitées et temporaires à certaines règles communautaires sanitaires spécifiques

II. Caractéristiques des entreprises concernées. En particulier :

(a) Y a-t-il un grand nombre de PME ?

OUI

(b) Note-t-on des concentrations dans des régions

i. éligibles aux aides régionales des Etats membres ?

NON

ii. éligibles au Feder ?

NON

III. Quelles sont les obligations imposées directement aux entreprises ?

Règles de contrôles variables selon les cas.

IV. Quelles sont les obligations suceptibles d'être imposées indirectement aux entreprises via les autorités locales ?

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V. Y a-t-il des mesures spéciales pour les PME ? Lequelles ?

NON - mais en principe, les P.M.E. devraient être les plus concernées

VI. Quel est l'effet prévisible

a) sur la compétitivité des entreprises ?

-

b) sur l'emploi ?

Favorables

VII. Les partenaires sociaux ont-ils été consultés . Quels sont leurs avis ?

Comité Consultatif Vétérinaire

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