



European Communities

EUROPEAN PARLIAMENT**SESSION DOCUMENTS**

English Edition

5 April 1991

A3-0086/91

**R E P O R T**

of the Committee on the Environment, Public Health and
Consumer Protection

on the Commission proposal for a Council directive amending
Directive 72/461/EEC on health problems affecting intra-
Community trade in fresh meat and Directive 72/462/EEC on
health and veterinary inspection problems upon importation
of bovine animals and swine and fresh meat or meat products
from third countries

(COM(90) 175 final - C3-0190/90)

Rapporteur: Sir James SCOTT-HOPKINS

DOC_EN\RR\107159

PE 148.464/fin.
Or. FR

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading	**II	= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment
I	= Cooperation procedure (first reading)	*	= Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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By letter of 22 June 1990 the Council consulted the European Parliament, pursuant to Article 43 of the EEC Treaty, on the Commission proposal for a Council directive amending Directive 72/461/EEC on health problems affecting intra-Community trade in fresh meat and Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries.

At the sitting of 9 July 1990 the President of Parliament announced that he had referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Agriculture, Fisheries and Rural Development for its opinion.

At its meeting of 17 July 1990 the Committee on the Environment, Public Health and Consumer Protection appointed Sir James Scott-Hopkins rapporteur.

At its meeting of 8 February 1991 the committee decided to apply the procedure without report, pursuant to Rule 116(1) of the Rules of Procedure.

At its meeting of 22 March 1991 the committee decided to alter the procedure adopted at its meeting of 8 February 1991 and to draw up a report, pursuant to Rule 117 of the Rules of Procedure.

At its meeting of 4 April 1991 it considered the Commission proposal and draft report.

At the last meeting it adopted the draft legislative resolution unanimously.

The following took part in the vote: Collins, chairman; Schleicher, vice-chairman; Scott-Hopkins, rapporteur and vice-chairman; Iversen, vice-chairman; Amendola; Bowe; de la Camara Martinez; Caudron (for Bombard); Ceci; Chanterie; Diez de Rivera Icaza; Di Rupo; Douste-Blazy; Duarte Cendan (for Avgerinos); Florenz; Guidolin; Hadjigeorgiou (for Alber); Caroline Jackson; Jensen; Kuhn; Muntingh; Nordmann (for Pimenta); Oomen-Ruijten; Pereira; Pollack; Pompidou (for Fitzsimons); Roth-Behrendt; Santos (for Monnier-Besombes); Schwartzberg; Llewellyn Smith; Van Hemeldonck (for Green pursuant to Rule 111(2)); Veil; Vernier; Vittinghoff and Vohrer.

The opinion of the Committee on Agriculture, Fisheries and Rural Development is attached.

The report was tabled on 4 April 1991.

The deadline for tabling amendments will appear on the draft agenda for the parl-session at which the report is to be considered.

A
DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament on the Commission proposal for a Council directive amending Directive 72/461/EEC on health problems affecting intra-Community trade in fresh meat and directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries

The European Parliament,

- having regard to the Commission proposal to the Council (COM(90) 175 final¹,
- having been consulted by the Council pursuant to Article 43 of the EEC Treaty (C3-0190/90),
- having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Committee on Agriculture, Fisheries and Rural Development (A3-0086/91)

1. Approves the Commission proposal in accordance with the vote thereon;
2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
4. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No C 154, 23.6.1990, p. 8

B
EXPLANATORY STATEMENT

On 30 December 1986, the Council adopted Directive 87/64/EEC amending Directive 72/461/EEC on health problems affecting intra-Community trade in fresh meat and Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries¹.

The aim of Directive 87/64/EEC was to facilitate the importation from third countries of glands and organs (including blood) intended as raw materials for the pharmaceutical industry, and to apply similar provisions to facilitate intra-Community trade in such products.

In its opinion of 14 June 1985 Parliament had approved the Commission proposal on which Directive 87/64/EEC was based.

This Directive was based on Articles 100 and 113 of the Treaty, whereas the Commission had proposed Article 43 as the legal basis. The Commission therefore brought an action before the Court of Justice with a view to having Council Directive 87/64/EEC declared void.

In its judgment on the case, delivered on 16 November 1989², the Court stated that, as it has held in previous cases³, 'Article 43 of the Treaty is the appropriate legal basis for any legislation concerning the production and marketing of agricultural products listed in Annex II to the Treaty which contributes to the achievement of one or more of the objectives of the Common Agricultural Policy set out in Article 39 of the Treaty.'

In view of this, and after considering whether there were sufficient grounds for linking the legislation in question to the sphere of agriculture and thus to Article 43 of the Treaty, the Court found that 'the products covered by Directives 72/461 and 72/462 and thus by the contested directive are products which fall under Annex II to the Treaty' and that, in seeking to enable the pharmaceutical industry to procure an agricultural raw material at reasonable prices and in sufficient quantities, the contested directive was contributing to assuring the availability of supplies and ensuring that supplies reached consumers at reasonable prices, which were objectives referred to in Article 39(1)(d) and (e) of the Treaty.

With regard to the fact that a further aim of the contested directive was to protect public health, the Court stated that, as it had held in the cases quoted above³, 'efforts to achieve objectives of the Common Agricultural Policy cannot disregard requirements relating to the public interest, such as, in particular, the protection of health, and the fact that measures adopted in the context of the Common Agricultural Policy pursue at the same time objectives which, in the absence of specific provisions, are pursued on the basis of Article 100 of the Treaty, does not remove those measures from the field of application of Article 43.'

¹ L OJ No. 34, 5.2.1987, p. 52

² Case No. 131/87, Commission of the European Communities v. Council of the European Communities

³ Judgments of 23 February 1988, Cases Nos. 68/86 and 131/86

With regard to Article 113, the Court found that 'it is apparent from Article 40(3) of the Treaty that measures taken in the context of the Common Agricultural Policy may also affect importation and exportation of the products concerned.'

The Court concluded that Directive 87/64/EEC fell within the field of application of Article 43 of the Treaty and that the Council was not justified in adopting it on the basis of Articles 100 and 113; it was therefore declared void.

Following this judgment, the Commission submitted to the Council the current proposal for a directive. Its substance is identical to that of the directive which has been declared void, but it is based this time on Article 43 of the Treaty. This proposal for a directive should therefore be approved.

OPINION
OF THE COMMITTEE ON AGRICULTURE, FISHERIES AND RURAL DEVELOPMENT

Letter from Mr COLINO SALAMANCA, chairman of the Committee on Agriculture, Fisheries and Rural Development, to Mr Kenneth D. COLLINS, chairman of the Committee on the Environment, Public Health and Consumer Protection

Brussels, 22 October 1990

Subject: Proposal for a Council Directive amending Directive 72/461/EEC on health problems affecting intra-Community trade in fresh meat and Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries (COM(90) 175 final - C3-0190/90)

Dear Mr Chairman,

At its meeting of 15 and 16 October 1990¹, the Committee on Agriculture, Fisheries and Rural Development considered the above-mentioned proposal for a directive on which the committee of which you are chairman is to draw up a report.

This proposal for a directive is intended to replace Council Directive 87/64/EEC of 30 December 1986, annulled by the Court of Justice decision of 16 November 1989 (Case No. 131/87), which found that the appropriate legal basis is Article 43 of the Treaty and not Articles 100 and 113.

This amendment has been called for repeatedly by the European Parliament in its opinions on legislation in the veterinary field, for which reason the Committee on Agriculture fully supports the measure now taken.

The proposal for a directive is one of the measures needed for the implementation of the single market and is concerned with authorizing the introduction into the territory of each Member State of glands or organs, including blood, for the pharmaceutical processing industry, whether originating in other Member States or in third countries.

The Committee on Agriculture, Fisheries and Rural Development considers that the derogations it introduces are justified and therefore recommends that this proposal for a directive be approved.

Yours faithfully,

Juan Luis COLINO SALAMANCA

¹ The following members were present: Colino Salanca, chairman; Graefe zu Baringdorf, vice-chairman; Blaney; Carvalho Cardoso; Domingo Segarra; Garcia; Görlach; Livanos; Marck; Ortiz Climent; Partsch (for Falqui); F. Pisoni (for N. Pisoni); Sonneveld; Verbeek and Vohrer

