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Subject: **EMPLOYMENT, SOCIAL POLICY, HEALTH AND CONSUMERS
AFFAIRS (EPSCO) COUNCIL MEETING ON 7 AND 8 JUNE 2010**

Proposal for a regulation on the provision of food information to consumers
- *Policy debate*

Delegations will find attached an introductory note from the Presidency on the above subject, including questions presented with a view to the policy debate to be held at the Council (EPSCO) on 7 - 8 June 2010.

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ON THE PROVISION OF FOOD INFORMATION TO CONSUMERS**

I. INTRODUCTION

1. On 6 February 2008, the Commission submitted to the European Parliament and the Council a proposal for a Regulation on the provision of food information to consumers, based on Article 95 of the Treaty establishing the European Community. The proposal is in line with the Commission's Better Regulation Policy.

The proposal aims to streamline the legislation applicable to food labelling in general and to nutrition labelling in particular, merging into a single Regulation the two Directives in force: 2000/13/EC¹ and 90/496/EEC².

A considerable number of the existing provisions in these two Directives and in several other legislative acts were reintroduced in the proposal, subject to a rearrangement of the legal text³. The proposal introduces mandatory nutrition labelling.

¹ Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).

² Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs (OJ L 276, 6.10.1990, p. 40).

³ A new structure has been created based on the introduction of a number of Annexes supplementing the provisions in the Articles.

Concerning general labelling, the proposal lays down common labelling requirements applicable to all foods to be delivered to the final consumer and to foods supplied to mass caterers and specifies the responsibility corresponding to the role of each food operator in the supply chain.

Another major concern reflected in the proposal is to improve the legibility of the information provided to consumers.

The proposal provides for a number of exemptions from the obligation for foods to bear a list of ingredients and nutrients. These exemptions concern in particular certain alcoholic beverages and will be the subject of a report by the Commission 5 years after the entry into the force of the Regulation.

The provision of information in relation to non-prepacked food can be established by national measures. The information on allergens is always compulsory.

2. On 10 March 2008, the Council consulted the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community. The Section for Agriculture, Rural Development and the Environment, which was responsible for the Committee's work on the subject, adopted its opinion on 2 September 2008. The rapporteur was Mr. José M^a Espuny Moyano.
3. The European Parliament is expected to give its opinion at first reading in June 2010.

II. WORK IN THE COUNCIL

The proposal has been discussed in depth by the Working Party on Foodstuffs⁴ since 2008 and was the subject of intense work during the Slovenian, French, Czech and Swedish Presidencies. The Spanish Presidency has so far held five meetings, during which all the Articles were reviewed.

The discussions that have taken place in the Council Working Party showed the support of the Member States to the main objectives pursued by the proposed Regulation.

Many important questions have been raised. For some of them it has been possible to find compromise solutions. For others, the positions of the Member States are still divided, thus affecting the progress of the dossier.

Against this background, the Spanish Presidency considers that a debate at political level on this file is justified and proposes to submit this file to the Employment, Social Affairs, Health and Consumers Council of 7 - 8 June 2010.

To structure the debate at Council, the Presidency would suggest that Ministers focus their interventions on the following questions:

QUESTIONS FOR DISCUSSION

1. To be legible is one of the basic conditions for the labels to be useful for the consumers. The legislation in force does not provide for a measurable criterion to define legibility, thus it is not always simple to enforce this requirement.

⁴ The results of the work of the Working Party are reflected on the following progress reports: 16519/08; 10641/09; 16594/09.

The proposal accepted by most of the Member States includes the establishment of a minimum font size (1.2 mm generally). This has been the result of an intense debate that began based on the proposal of the Commission setting a minimum font size of 3 mm. Recital 25 of the proposal justifies this by saying that “... *Studies show that legibility is an important element in maximizing the possibility that labelled information can influence its audience and that the small print size is one of the main causes of consumer dissatisfaction with food labels.*”

On the other hand, the Committee on the Environment, Public Health and Food Safety of the European Parliament (Rapporteur: Renate Sommer) proposes in its report⁵ (amendment number 110) to modify Article 14(1), replacing the minimum font size by other criteria for legibility.

This different point of view prompted the Presidency to raise a question about this issue which in the Working Party on Foodstuffs has been subject of broad agreement.

Should the legibility criteria be linked with, at least, a minimum letter size?

2. Article 17(1) of Regulation 178/2002/CE establishes that “ *Food and feed business operators at all stages of production, processing and distribution within the businesses under their control shall ensure that foods or feeds satisfy the requirements of food law which are relevant to their activities and shall verify that such requirements are met.* ”

The proposal from the Commission defines in Article 8 the responsibilities along the food chain. This approach has its justification in Recital 21: “*In order to prevent a fragmentation of the rules concerning the responsibility of food business operators with respect to food information it is appropriate to clarify the responsibilities of food business operators in this area.*”

⁵ A7 - 0/09/2010

However, the Commission's intention to clarify the responsibilities of food business operators along the food chain has led to a division of positions between the Member States, thus impeding progress of the discussion. One group of countries considers the current framework of Regulation (EC) 178/2002 as sufficient and opposes the approach taken by the Commission. The second group of countries supports the text proposed by the Commission.

In order to make progress on this issue, the Council is asked to reply to the following question:

Is it necessary to further specify the responsibilities of food operators along the food chain?
