

# EUROPEAN PARLIAMENT

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## **\*\*\*I** **REPORT**

on the proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny – Adaptation to the regulatory procedure with scrutiny – Part Four (COM(2008)0071 – C6-0065/2008 – 2008/0032(COD))

Committee on Legal Affairs

Rapporteur: József Szájer

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny – Adaptation to the regulatory procedure with scrutiny – Part Four (COM(2008)0071 – C6-0065/2008 – 2008/0032(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0071),
  - having regard to Article 251(2) and Articles 47(2), 55, 71(1), 80(2), 95, 152(4)(a) and (b), 175(1) and 285(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0065/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A6-0301/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

**Proposal for a regulation – amending act**

**Annex – section 1.3 – point 1a (new)**

Directive 1999/5/EC

Article 5 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(1a) Article 5(3) shall be replaced by the following:***

**"3. In the case of shortcomings of**

**harmonised standards with respect to the essential requirements, the Commission may [...] publish in the Official Journal of the European Communities guidelines on the interpretation of harmonised standards or the conditions under which compliance with that standard raises a presumption of conformity. [...] The Commission may *also* withdraw harmonised standards by publication of a notice in the Official Journal of the European Communities.**

*Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15."*

*Justification*

*The corrections to harmonised standards are quasi-legislative measures and thus Article 5(3) should be aligned to RPS.*

**Amendment 2**

**Proposal for a regulation – amending act**

**Annex – section 1.5 – point -1 (new)**

Directive 2001/20/EC

Article 1 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

***(-1) In Article 1(3), the first subparagraph shall be replaced by the following:***

***"3. The Commission shall adopt and, if necessary, revise the principles of good clinical practice and detailed guidelines in line with those principles [...] to take account of technical and scientific progress [...].***

***Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny***

*referred to in Article 21(3)."*

### **Amendment 3**

#### **Proposal for a regulation – amending act**

#### **Annex – section 1.7 – point 1a (new)**

Directive 2006/42/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

*Amendment*

*(1a) Article 8(2) shall be replaced by the following:*

**"2. The Commission [...] may also take any appropriate measure connected with the implementation and practical application of this Directive, including measures necessary to ensure cooperation of Member States with each other and with the Commission, as provided for in Article 19(1).**

***Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3)."***

*Justification*

*In view of the general nature of the implementing power given to the Commission, also in Article 8(2) reference must be made to the RPS.*

### **Amendment 4**

#### **Proposal for a regulation – amending act**

#### **Annex – section 2.3 – point 7 a (new)**

Regulation (EC) No 2037/2000

Article 11 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(7a) In Article 11, paragraph 3 shall be replaced by the following:*

**"3. From 1 January 2004, exports from the Community of**

**hydrochlorofluorocarbons to any State not party to the Protocol shall be prohibited. The Commission shall [...] examine the above date in the light of relevant international developments under the Protocol and modify it as appropriate.**

*Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3)."*

## **Amendment 5**

### **Proposal for a regulation – amending act**

#### **Annex – section 2.6 – point 1**

Directive 2006/21/EC

Article 22 – paragraph 2

#### *Text proposed by the Commission*

2. By 1 May 2008, the Commission shall lay down provisions necessary for the following, prioritising (b), (c) and (d):
- (a) the implementation of Article 13(6), including technical requirements relating to the definition of weak acid dissociable cyanide and its measurement method;
  - (b) the completion of the technical requirements for waste characterisation contained in Annex II;
  - (c) the interpretation of the definition contained in point 3 of Article 3;
  - (d) the definition of the criteria for the classification of waste facilities in accordance with Annex III
  - (e) the determination of any harmonised standards for sampling and analysis methods needed for the technical implementation of this Directive. *Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it shall be adopted in accordance with the regulatory*

#### *Amendment*

2. By 1 May 2008, the Commission shall lay down provisions necessary for the following, prioritising (b), (c) and (d):
- (a) the implementation of Article 13(6), including technical requirements relating to the definition of weak acid dissociable cyanide and its measurement method;
  - (b) the completion of the technical requirements for waste characterisation contained in Annex II;
  - (c) the interpretation of the definition contained in point 3 of Article 3;
  - (d) the definition of the criteria for the classification of waste facilities in accordance with Annex III;
  - (e) the determination of any harmonised standards for sampling and analysis methods needed for the technical implementation of this Directive.



*procedure with scrutiny referred to in Article 23(3).*

***Those measures, designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).***

*(The amendment means that the last paragraph will cover points (a) to (e))*

## **Amendment 6**

**Proposal for a regulation – amending act  
Annex – section 3.1 – paragraph 1  
Regulation (EC) No 2494/95**

### *Text proposed by the Commission*

As regards Regulation (EC) No 2494/95, power should in particular be conferred on the Commission to adopt rules to be followed to ensure the comparability of HICPs and to maintain and improve their reliability and relevance. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 2494/95 by supplementing it by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

### *Amendment*

As regards Regulation (EC) No 2494/95, power should in particular be conferred on the Commission to adopt rules to be followed to ensure the comparability of HICPs and to maintain and improve their reliability and relevance. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 2494/95 by supplementing it by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***The provisions of Regulation (EC) No 2494/95 do not affect Article 105(4) of the EC Treaty, which provides that the European Central Bank is to be consulted on any proposed Community act in its fields of competence.***

### *Justification*

*Article 105(4) EC is the basis for an obligation to consult the European Central Bank on any proposed Community act in its field of competence. In its opinion ECB considers that this obligation covers notably the measures concerned by Article 5(3). Furthermore, under Article 202 EC the legislature cannot impose any other conditions on the Commission's exercise of*

*its implementing powers than the ones decided in the Comitology Decision. For these reasons, the legislative act should not contain any provision concerning the consultation of the ECB when the Commission adopts implementing measures.*

## **Amendment 7**

### **Proposal for a regulation – amending act**

#### **Annex – section 3.1 – point 3**

Regulation (EC) No 2494/95

Article 5 – paragraph 3

#### *Text proposed by the Commission*

3. The Commission shall adopt implementing measures for this Regulation which are necessary for ensuring the comparability of HICPs and for maintaining and improving their reliability and relevance, ***after consultation of the ECB***. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).

#### *Amendment*

3. The Commission shall adopt implementing measures for this Regulation which are necessary for ensuring the comparability of HICPs and for maintaining and improving their reliability and relevance. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).

#### *Justification*

*Article 105(4) EC is the basis for an obligation to consult the European Central Bank on any proposed Community act in its field of competence. In its opinion ECB considers that this obligation covers notably the measures concerned by Article 5(3). Furthermore, under Article 202 EC the legislature cannot impose any other conditions on the Commission's exercise of its implementing powers than the ones decided in the Comitology Decision. For these reasons, the legislative act should not contain any provision concerning the consultation of the ECB when the Commission adopts implementing measures.*

## **Amendment 8**

### **Proposal for a regulation – amending act**

#### **Annex – section 3.3 – point 3**

Regulation (EC) 1165/98

Article 17 – paragraphs 2 and 3

#### *Text proposed by the Commission*

The measures referred to in ***points (h) and (i)*** shall be adopted in accordance with the

#### *Amendment*

The measures referred to in ***point (i)*** shall be adopted in accordance with the

regulatory procedure referred to in Article 18(2).

The measures referred to in points (a) to **(g)** and (j) to (l), measures designed to amend non-essential elements of this Regulation, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

regulatory procedure referred to in Article 18(2).

The measures referred to in points (a) to **(h)** and (j) to (l), measures designed to amend non-essential elements of this Regulation, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

### *Justification*

*Article 17(h) gives the Commission the power to grant derogations as well as to adopt transition periods which are a precondition for giving Member States those derogations. As a transition period would normally be a measure of general scope and specific derogations could be also of general scope, this power should be made subject to RPS.*

## **Amendment 9**

### **Proposal for a regulation – amending act**

#### **Annex – section 4.1 – point 1**

Regulation (EC) No 2195/2002

Articles 2 and 3

#### *Text proposed by the Commission*

Articles 2 and 3 are replaced by the following:

##### *"Article 2*

The Commission shall adopt the measures necessary for the revision of the CPV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 3(2). ***On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 3(3).***

##### *Article 3*

1. The Commission shall be assisted by the Committee established by Council Decision 71/306/EEC (\*), hereinafter referred to as "the Committee".
2. Where reference is made to this

#### *Amendment*

Articles 2 and 3 are replaced by the following:

##### *"Article 2*

The Commission shall adopt the measures necessary for the revision of the CPV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 3(2).

##### *Article 3*

1. The Commission shall be assisted by the Committee established by Council Decision 71/306/EEC (\*), hereinafter referred to as "the Committee".
2. Where reference is made to this

paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

***3. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Justification*

*The reference to the urgency procedure is not necessary in this case, and should therefore be deleted.*

**Amendment 10**

**Proposal for a regulation – amending act  
Annex – section 4.2 – point 2 – point a  
Directive 2004/17/EC  
Article 69 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

The Commission shall verify the thresholds established in Article 16 every two years from 30 April 2004, and shall, if necessary, with regard to the second subparagraph, revise them. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 68(4)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 68(5).

*Amendment*

The Commission shall verify the thresholds established in Article 16 every two years from 30 April 2004, and shall, if necessary, with regard to the second subparagraph, revise them. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 68(3)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 68(5).

*Justification*

*The curtailment of time-limits is not necessary in this case, and should therefore be deleted.*

## Amendment 11

### Proposal for a regulation – amending act

#### Annex – section 4.2 – point 2 – point b

Directive 2004/17/EC

Article 69 – paragraph 2 – subparagraph 1

#### *Text proposed by the Commission*

At the same time as performing the revision under paragraph 1, the Commission shall align the thresholds laid down in Article 61 (design contests) with the revised threshold applicable to service contracts. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 68(4)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 68(5).

#### *Amendment*

At the same time as performing the revision under paragraph 1, the Commission shall align the thresholds laid down in Article 61 (design contests) with the revised threshold applicable to service contracts. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 68(3)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 68(5).

#### *Justification*

*The curtailment of time-limits is not necessary in this case, and should therefore be deleted.*

## Amendment 12

### Proposal for a regulation – amending act

#### Annex – section 4.2 – point 3

Directive 2004/17/EC

Article 70 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 68(3). ***On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 68(5).***

#### *Amendment*

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 68(3).

*Justification*

*The reference to the urgency procedure is not necessary in this case, and should therefore be deleted.*

**Amendment 13**

**Proposal for a regulation – amending act**  
**Annex – section 4.3 – point 2 – point a**  
Directive 2004/18/EC  
Article 78 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

The Commission shall verify the thresholds established in Article 7 every two years from 30 April 2004 and shall, if necessary, revise them. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 77(4)*. ***On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 77(5).***

*Amendment*

The Commission shall verify the thresholds established in Article 7 every two years from 30 April 2004 and shall, if necessary, revise them. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 77(3)*.

*Justification*

*The curtailment of time-limits and reference to the urgency procedure are not necessary in this case, and should therefore be deleted.*

**Amendment 14**

**Proposal for a regulation – amending act**  
**Annex – section 4.3 – point 2 – point b**  
Directive 2004/18/EC  
Article 78 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 77(4)*. ***On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article***

*Amendment*

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 77(3)*.

77(5).

*Justification*

*The curtailment of time-limits and reference to the urgency procedure are not necessary in this case, and should therefore be deleted.*

**Amendment 15**

**Proposal for a regulation – amending act**

**Annex – section 5.1 – point 2**

Regulation (EC) No 315/93

Article 4 – paragraph 2

*Text proposed by the Commission*

(2) *In* Article 4(2), *the words "Article 8" are replaced by the words "Article 8(2)".*

*Amendment*

(2) Article 4(2) *shall be* replaced by the *following*:

**"2. The Commission shall examine the reasons given by the Member State referred to in paragraph 1 as soon as possible in the Standing Committee for Foodstuffs, set up by Decision 69/314/EEC<sup>1</sup>, and shall deliver its opinion immediately and take any necessary measures *aimed at confirming, amending or repealing the national measure* in accordance with the regulatory procedure laid down in Article 8(2)."**

**Amendment 16**

**Proposal for a regulation – amending act**

**Annex – section 5.2 – point 2**

Directive 93/74/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

(2) *In* Article 8(2), *the words "Article 9" are replaced by the words "Article 9(2)".*

*Amendment*

(3) Article 8(2) *shall be* replaced by the *following*:

**"2. The Commission shall initiate as soon as possible the *regulatory procedure* laid down in Article 9(2) with a view to**

**adopting any appropriate measures aimed at confirming, amending or repealing the national measure."**

## **Amendment 17**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.2 – point 3**

Directive 93/74/EC

Article 9 – paragraph 3

#### *Text proposed by the Commission*

3. Where reference is made to this paragraph, Article 5a(1) to (4) **and 5(b)**, and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

#### *Amendment*

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

## **Amendment 18**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.3 – point 6 a (new)**

Directive 96/23/EC

Article 29 – paragraph 1 – subparagraph 4

#### *Text proposed by the Commission*

#### *Amendment*

***(6a) In Article 29(1), the fourth subparagraph shall be replaced by the following:***

***"The Commission shall approve the plan in accordance with the regulatory procedure laid down in Article 33(2). Under the same procedure, guarantees alternative to those resulting from the implementation of this Directive may be accepted."***



## Amendment 19

### Proposal for a regulation – amending act

#### Annex – section 5.4 – point 7

Regulation (EC) No 258/97

Article 12 – paragraph 2

*Text proposed by the Commission*

(7) ***In*** Article 12(2), ***the words "Article 13" are*** replaced by the ***words "Article 13(2)".***

*Amendment*

(7) Article 12(2) ***shall be*** replaced by the ***following:***

***"2. The Commission shall examine the grounds referred to in paragraph 1 as soon as possible within the Standing Committee for Foodstuffs; it shall take the appropriate measures aimed at confirming, amending or repealing the national measure in accordance with the regulatory procedure laid down in Article 13(2). The Member State which took the decision referred to in paragraph 1 may maintain it until the measures have entered into force."***

## Amendment 20

### Proposal for a regulation – amending act

#### Annex – section 5.5 – point 3 – point a

Decision 2119/98/EC

Article 7 – paragraph 3

*Text proposed by the Commission*

3. Where reference is made to this paragraph, Article 5a(1) to (4) ***and (5)(b),*** and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

*Amendment*

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

## Amendment 21

### Proposal for a regulation – amending act

#### Annex – section 5.6 – point 2 – point aa (new)

Directive 2000/13/EC

Article 6 – paragraph 6 – subparagraph 2 – indent 1

*Text proposed by the Commission*

*Amendment*

***(aa) in paragraph 6, second subparagraph, the first indent shall be replaced by the following:***

**“– ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category.**

**Alterations to the list of categories in Annex I may be effected by the Commission. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 20(3).**

**However, the designation ‘starch’ listed in Annex I must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,”**

## Amendment 22

### Proposal for a regulation – amending act

#### Annex – section 5.6 – point 2 – point b

Directive 2000/13/EC

Article 6 – paragraph 6 – subparagraph 2 – indent 2

*Text proposed by the Commission*

*Amendment*

- ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EC number; if an ingredient belongs to more than one of the categories, the category

- ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EC number; if an ingredient belongs to more than one of the categories, the category

appropriate to the principal function in the case of the foodstuff in question shall be indicated;

Amendments to this Annex based on advances in scientific and technical knowledge, measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(4)**;

However, the designation ‘modified starch’ listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,

appropriate to the principal function in the case of the foodstuff in question shall be indicated.

Amendments to this Annex based on advances in scientific and technical knowledge, measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(3)**.

However, the designation ‘modified starch’ listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,

### **Amendment 23**

**Proposal for a regulation – amending act**  
**Annex – section 5.6 – point 2 – point d**  
Directive 2000/13/EC  
Article 6 – paragraph 11 – subparagraph 3

#### *Text proposed by the Commission*

Without prejudice to the second subparagraph, Annex IIIa may be amended by the Commission, after an opinion has been obtained from the European Food Safety Authority issued on the basis of Article 29 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (\*). Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(4)**.

#### *Amendment*

Without prejudice to the second subparagraph, Annex IIIa may be amended by the Commission, after an opinion has been obtained from the European Food Safety Authority issued on the basis of Article 29 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (\*). Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(3)**.

## Amendment 24

**Proposal for a regulation – amending act**  
**Annex – section 5.6 – point 5 a (new)**  
Directive 2000/13/EC  
Article 12 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(5a) In Article 12, the second paragraph shall be replaced by the following:***

***"In the case of other beverages containing more than 1,2 % by volume of alcohol, these rules shall be laid down by the Commission.***

***Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 20(3)".***

## Amendment 25

**Proposal for a regulation – amending act**  
**Annex – section 5.6 – point 7 – point b**  
Directive 2000/13/EC  
Article 20 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(b) the following paragraph 4 is added:***

***deleted***

***"4. Where reference is made to this paragraph, Article 5a(1) to (4) and 5(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively."***

## **Amendment 26**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.7 – point 2**

Directive 2001/37/EC

Article 9 – paragraph 1

#### *Text proposed by the Commission*

1. The adaptation to scientific and technical progress of the measurements methods laid down in Article 4 and the definitions relating thereto shall be decided by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 10(4)*.

#### *Amendment*

1. The adaptation to scientific and technical progress of the measurements methods laid down in Article 4 and the definitions relating thereto shall be decided by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 10(3)*.

## **Amendment 27**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.7 – point 3**

Directive 2001/37/EC

Article 10 – paragraph 4

#### *Text proposed by the Commission*

***4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

#### *Amendment*

***deleted***

## **Amendment 28**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.8 – point 2**

Directive 2001/95/EC

Article 5 – paragraph 3 – subparagraph 2

#### *Text proposed by the Commission*

The Commission shall adapt the specific requirements relating to the obligation to provide information laid down in Annex I. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(5)**.

#### *Amendment*

The Commission shall adapt the specific requirements relating to the obligation to provide information laid down in Annex I. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(4)**.

## **Amendment 29**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.8 – point 3**

Directive 2001/95/EC

Article 12 – paragraph 3

#### *Text proposed by the Commission*

Detailed procedures for RAPEX are set out in Annex II. They shall be adapted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(5)**.

#### *Amendment*

3. Detailed procedures for RAPEX are set out in Annex II. They shall be adapted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(4)**.

## **Amendment 30**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.8 – point 4**

Directive 2001/95/EC

Article 15 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. Where reference is made to this paragraph, Article 5a paragraphs 1 to 4 and 5 (b) and Article 7 of the Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**deleted**

**The time limits laid down in Article 5a(3)(c) and (4) (b) and (e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.**

### **Amendment 31**

**Proposal for a regulation – amending act  
Annex – section 5.10 – point 8  
Regulation (EC) No 1774/2002  
Article 22 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Rules for the implementation of this Article, including rules concerning control measures, shall be adopted **in accordance with the procedure referred to in Article 33(2)**. Derogations from paragraph 1(a) of this Article may be granted by the Commission in relation to fish and fur animals, after consultation of the appropriate scientific committee. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3).

2. Rules for the implementation of this Article, including rules concerning control measures, shall be adopted **by the Commission. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3)**. Derogations from paragraph 1(a) of this Article may be granted by the Commission in relation to fish and fur animals, after consultation of the appropriate scientific committee. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3).

## Amendment 32

**Proposal for a regulation – amending act**  
**Annex – section 5.10 – point 12 a (new)**  
Regulation (EC) No 1774/2002  
Article 29 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

***(12a) In Article 29(4), the first subparagraph shall be replaced by the following:***

**"4. Products referred to in Annexes VII and VIII, except for technical products, must come from plants on a Community list drawn up by the Commission on the basis of a communication from the competent authorities of the third country to the Commission declaring that the plant complies with the Community requirements and is subject to supervision by an official inspection service in the third country.**

***Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3)."***

## Amendment 33

**Proposal for a regulation – amending act**  
**Annex – section 5.10 – point 20 - point a – subpoint -i (new)**  
Regulation (EC) No 1774/2002  
Annex VIII – chapter IV – part A – point 3 – point a – point ii – indent 5

*Text proposed by the Commission*

*Amendment*

***(-i) in point 3(a)(ii), the fifth indent shall be replaced by the following:***

***"– any other treatment provided for by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory***



**procedure with scrutiny referred to in Article 33(3);"**

#### **Amendment 34**

##### **Proposal for a regulation – amending act**

##### **Annex – section 5.11 – point 1**

Directive 2002/98/EC

Article 28 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**deleted**

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

#### **Amendment 35**

##### **Proposal for a regulation – amending act**

##### **Annex – section 5.11 – point 2 – point c**

Directive 2002/98/EC

Article 29 – new paragraphs

*Text proposed by the Commission*

*Amendment*

Technical requirements referred to in points (a), **(h) and (i)** of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(3).

***Technical requirements referred to in points (b), (c), (d), (e), (f) and (g), of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be***

Technical requirements referred to in points (a) **to** (i) of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(3).

On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 28(5) as regards technical requirements referred to in points (b), (c) and (d) of the second paragraph.

*adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).* On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 28(5) as regards technical requirements referred to in points (b), (c) and (d) of the second paragraph.

### **Amendment 36**

**Proposal for a regulation – amending act**  
**Annex – section 5.12 – point 1**  
Regulation (EC) No 1831/2003  
Article 3 – paragraph 5

*Text proposed by the Commission*

5. Where necessary, as a result of technological progress or scientific development, the Commission may adapt the general conditions set out in Annex IV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(4)*.

*Amendment*

5. Where necessary, as a result of technological progress or scientific development, the Commission may adapt the general conditions set out in Annex IV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(3)*.

### **Amendment 37**

**Proposal for a regulation – amending act**  
**Annex – section 5.12 – point 2**  
Regulation (EC) No 1831/2003  
Article 6 – paragraph 3

*Text proposed by the Commission*

3. Where necessary, as a result of technological progress or scientific development, the Commission shall establish additional feed additive categories and functional groups. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure

*Amendment*

3. Where necessary, as a result of technological progress or scientific development, the Commission shall establish additional feed additive categories and functional groups. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure

with scrutiny referred to in *Article 22(4)*.

with scrutiny referred to in *Article 22(3)*.

### **Amendment 38**

#### **Proposal for a regulation – amending act**

##### **Annex – section 5.12 – point 4**

Regulation (EC) No 1831/2003

Article 16 – paragraph 6

#### *Text proposed by the Commission*

The Commission may adopt amendments to Annex III to take technological progress and scientific development into account. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(4)*.

#### *Amendment*

6. The Commission may adopt amendments to Annex III to take technological progress and scientific development into account. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(3)*.

### **Amendment 39**

#### **Proposal for a regulation – amending act**

##### **Annex – section 5.12 – point 5**

Regulation (EC) No 1831/2003

Article 21 – paragraph 3

#### *Text proposed by the Commission*

Detailed rules for implementing Annex II **and any amendments to that Annex** shall be adopted in accordance with the procedure referred to in Article 22(2).

Annex II may be amended by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(4)*.

#### *Amendment*

Detailed rules for implementing Annex II shall be adopted in accordance with the procedure referred to in Article 22(2).

Annex II may be amended by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 22(3)*.

## Amendment 40

**Proposal for a regulation – amending act**  
**Annex – section 5.12 – point 6 – point b**  
Regulation (EC) No 1831/2003  
Article 22 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**(b) paragraph 4 is added:**

**deleted**

**"4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively."**

## Amendment 41

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point -1 (new)**  
Regulation (EC) No 2065/2003  
Article 6 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**(-1) In Article 6, paragraph 1 shall be replaced by the following:**

**"1. A list of the primary products authorised to the exclusion of all others in the Community for use as such in or on foods and/or for the production of derived smoke flavourings shall be established by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

## Amendment 42

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point -1 a (new)**  
Regulation (EC) No 2065/2003  
Article 6 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(-1a) In Article 6, paragraph 3 shall be replaced by the following:*

**"3. Following the establishment of the list referred to in paragraph 1, primary products may be added to that list. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

## Amendment 43

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point -1 b (new)**  
Regulation (EC) No 2065/2003  
Article 17 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(-1b) In Article 17, paragraph 3 shall be replaced by the following:*

**"3. If necessary, the Commission shall, after having requested scientific and technical assistance from the Authority, adopt quality criteria for validated analytical methods proposed in accordance with point 4 of Annex II, including substances to be measured [...]. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

## Amendment 44

### Proposal for a regulation – amending act

#### Annex – section 5.13 – point 1

Regulation (EC) No 2065/2003

Article 18 – paragraph 2

*Text proposed by the Commission*

2. Amendments to the list referred to in Article 6(1) shall be adopted *in accordance with the procedure referred to in Article 19(2)* following consultation of the Authority for scientific and/or technical assistance.

*Amendment*

2. Amendments to the list referred to in Article 6(1) shall be adopted **by the Commission** following consultation of the Authority for scientific and/or technical assistance. ***Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).***

## Amendment 45

### Proposal for a regulation – amending act

#### Annex – section 5.15 – point 1 a (new)

Directive 2004/23/EC

Article 9 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(1a) In Article 9, paragraph 4 shall be replaced by the following:***

***"4. The procedures for verifying the equivalent standards of quality and safety in accordance with paragraph 1 shall be established by the Commission [...]. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3)."***

## Amendment 46

### Proposal for a regulation – amending act

#### Annex – section 5.15 – point 2 – point b

Directive 2004/23/EC

Article 28 – new paragraphs

#### *Text proposed by the Commission*

1. Technical requirements referred to in points (a), **(b), (c), (f), (g) and (i)**, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3).

2. ***Technical requirements referred to in points (d), (e) and (h), measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(4).*** On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 29(5) as regards technical requirements referred to in points (d) and (e) of Article 28.

#### *Amendment*

1. Technical requirements referred to in points (a) **to (i)**, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3).

2. On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 29(5) as regards technical requirements referred to in points (d) and (e) of Article 28.

## Amendment 47

### Proposal for a regulation – amending act

#### Annex – section 5.15 – point 4 – point b

Directive 2004/23/EC

Article 29 – paragraph 4

#### *Text proposed by the Commission*

***4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two***

#### *Amendment*

***deleted***

*months, one month and two months respectively.*

#### **Amendment 48**

**Proposal for a regulation – amending act**  
**Annex – section 5.16 – point 1 a (new)**  
Regulation (EC) No 882/2004  
Article 15 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***(1a) In Article 15, paragraph 5 shall be replaced by the following:***

***"5. A list of feed and food of non-animal origin that is, on the basis of known or emerging risk, to be subject to an increased level of official controls at the point of entry into territories referred to in Annex I shall be drawn up and updated by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4).***

***The frequency and nature of these controls shall be laid down in accordance with the same procedure. At the same time, the fees related to such controls may be established in accordance with the same procedure."***

#### **Amendment 49**

**Proposal for a regulation – amending act**  
**Annex – section 5.16 – point 5 a (new)**  
Regulation (EC) No 882/2004  
Article 32 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***(5a) In Article 32, paragraph 6 shall be replaced by the following:***



**"6. Additional responsibilities and tasks for Community reference laboratories may be laid down by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4)."**

## **Amendment 50**

**Proposal for a regulation – amending act**  
**Annex – section 5.16 – point 5 b (new)**  
Regulation (EC) No 882/2004  
Article 33 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***(5b) In Article 33, paragraph 6 shall be replaced by the following:***

**"6. Additional responsibilities and tasks for national reference laboratories may be laid down by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4)."**

## **Amendment 51**

**Proposal for a regulation – amending act**  
**Annex – section 5.17 – point 1 – point b**  
Regulation (EC) No 1935/2004  
Article 5 – paragraph 1 – new subparagraphs

*Text proposed by the Commission*

*Amendment*

The specific measures referred to in point (m) shall be adopted by the Commission in accordance with the procedure referred to in Article 23(2).

The specific measures referred to in points ***(f), (g), (h), (i), (j), (k)***, (l) and (n),

The specific measures referred to in point (m) shall be adopted by the Commission in accordance with the procedure referred to in Article 23(2).

The specific measures referred to in points ***(a) to*** (l) and (n), measures designed to

measures designed to amend non elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

***The specific measures referred to in points (a) to (e), measures designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(4).***

#### **Amendment 52**

**Proposal for a regulation – amending act**  
**Annex – section 5.17 – point 1 – point c**  
Regulation (EC) No 1935/2004  
Article 5 – paragraph 2

*Text proposed by the Commission*

2. The Commission may amend the existing specific directives on materials and articles. Those measures, designed to amend the non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(4)**.

#### **Amendment 53**

**Proposal for a regulation – amending act**  
**Annex – section 5.17 – point 3**  
Regulation (EC) No 1935/2004  
Article 11 – paragraph 3

*Text proposed by the Commission*

Community authorisation in the form of specific measure, as referred to in paragraph 1, shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in

amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

*Amendment*

2. The Commission may amend the existing specific directives on materials and articles. Those measures, designed to amend the non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(3)**.

*Amendment*

3. Community authorisation in the form of specific measure, as referred to in paragraph 1, shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in

*Article 23(4).*

*Article 23(3).*

#### **Amendment 54**

##### **Proposal for a regulation – amending act**

##### **Annex – section 5.17 – point 4**

Regulation (EC) No 1935/2004

Article 12 – paragraph 6

##### *Text proposed by the Commission*

A final specific measure on the modification, suspension or revocation of the authorisation shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(4)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 23(5).

##### *Amendment*

6. A final specific measure on the modification, suspension or revocation of the authorisation shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(3)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 23(5).

#### **Amendment 55**

##### **Proposal for a regulation – amending act**

##### **Annex – section 5.17 – point 6 – point b**

Regulation (EC) No 1935/2004

Article 23 – paragraph 4

##### *Text proposed by the Commission*

**4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.**

##### *Amendment*

**deleted**

## Amendment 56

### Proposal for a regulation – amending act

#### Annex – section 6.4 – point 1a (new)

Directive 2004/36/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

*Amendment*

*(1a) In Article 8, paragraph 2 shall be replaced by the following:*

**"On the basis of the information collected under paragraph 1, the Commission may:**

**a) in accordance with the procedure referred to in Article 10(2), take any appropriate measures to facilitate the implementation of Articles 3, 4 and 5 such as:**

**[...]**

**– detail the content of, and procedures for, ramp inspections;**

**– define the format for the storage and dissemination of data;**

**b) take the following measures:**

**– establish the list of information to be collected;**

**– create or support the appropriate bodies for managing or operating the tools necessary for the collection and exchange of information.**

***Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(4)."***

*Justification*

*Establishing the list of information to be collected and creating or supporting the appropriate bodies are measures of general scope falling under the criteria of the RPS.*

## Amendment 57

### Proposal for a regulation – amending act

#### Annex – section 6.6 – point -1 (new)

Directive 2004/54/EC

Article 13 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(-1) In Article 13, paragraph 3 shall be replaced by the following:***

***"By [...] the Commission shall publish a report on the practice followed in the Member States. Where necessary, it shall make proposals for a common harmonised risk analysis methodology. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 17(3)."***

*Justification*

*Measures concerning adoption of a common harmonised risk analysis methodology should be adopted under RPS.*

## Amendment 58

### Proposal for a regulation – amending act

#### Annex – section 6.7 – point 1 a (new)

Regulation (EC) No 2111/2005

Article 7

*Text proposed by the Commission*

*Amendment*

***(1a) In Article 7 the following paragraph shall be added:***

***"The detailed rules for establishing the rights of defence shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(4)."***

*Justification*

*The RPS should apply for measures to be adopted on rights of defence.*

**Amendment 59**

**Proposal for a regulation – amending act**

**Annex – section 6.7 – point 1 b (new)**

Regulation (EC) No 2111/2005

Article 8 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***(1b) Article 8(1) shall be replaced by the following:***

**"1. The Commission [...] shall, where appropriate, adopt implementing measures in order to lay down detailed rules in respect of the procedures referred to in this Chapter."**

*Justification*

*Following the introduction of different procedures in Articles 3, 4, 5 and 7, the general reference to the regulatory procedure in Article 8 can be misleading and should thus be deleted.*

## EXPLANATORY STATEMENT

Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>1</sup> was amended by Council Decision 2006/512/EC of 17 July 2006<sup>2</sup>. Article 5a of amended Decision 1999/468/EC introduced the new 'regulatory procedure with scrutiny' (RPS) for *measures of a general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with codecision, inter alia by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.*

Following the screening of the existing legislation and on-going procedures<sup>3</sup>, the European Commission presented inter alia this proposal, covering 46 legislative acts to be adapted to the new regulatory procedure with scrutiny (RPS).

In its decision of 12 December 2007 the Conference of Presidents designated the Committee on Legal Affairs as the lead Committee to deal with this 'comitology alignment' and the specialised committees as opinion-giving committees. The Conference of Committees Chairs agreed on 15 January 2008 on the modalities of cooperation between JURI and other committees involved.

The Rapporteur proposed to other committees that the alignment packages should be adopted as soon as possible, in order for the RPS procedure to start applying to the existing acquis before the entry into force of the Treaty of Lisbon (which contains important provisions on delegated acts, which will replace RPS, but which will take time to be adopted via codecision). The present Report contains several amendments that were suggested by other committees in their opinions, received in form of letters, as well as amendments relating to the dossiers of the Committee on Environment, Public Health and Food Safety.

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<sup>1</sup> OJ C 203, 17.7.1999, p. 1.

<sup>2</sup> OJ L 200, 22.7.2006, p. 11.

<sup>3</sup> COM(2007)0740.

## LETTER OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Mr. József Szájer, MEP  
ASP 12E258

Dear Rapporteur,

The Economic and monetary affairs committee (ECON) has looked at the fourth "omnibus proposal"<sup>1</sup>. We have noted points 3.1 and 3.3 fall into our competencies.

### **Point 3.1 Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices**

Regulation (EC) No 2494/95 contains six provisions conferring implementing powers on the Commission, currently all subjects to the regulatory procedure. The proposal for alignment makes three of these powers subject the Regulatory procedure with scrutiny and leaves three under the regulatory procedure. In principle the choice made seems to be the most appropriate one. There is thus from the legal point of view no reason to contest the alignment proposed.

However, a different problem has been identified in respect of Article 5(3). In fact it is provided that the European Central Bank (ECB) shall be consulted before the Commission adopts implementing measures. Under Article 202 EC a legislative acts cannot impose other conditions than the ones provided for in the Comitology decision on the Commission. No consultation of the ECB is foreseen in the Comitology decision. Therefore, the text should be modified so that it becomes clear that the consultation of ECB is not a condition for the adoption of the implementing measures.

However, in its opinion (OJ C117 of 14 May 2008, p.1), the ECB has argued that Article 105(4) is applicable to implementing measures. That would mean that the Treaty already imposes an obligation to consult the ECB. If the ECB argument was to be accepted, it would also be legally more coherent if the legislative act did not contain any provision concerning a consultation of the ECB. Therefore the phrase concerning the consultation of the ECB should be deleted.

We would consequently like to see the part of the proposed Article 5(3) referring to a consultation of the ECB to be deleted and the following phrase should be added to the recital under point 3.1 concerning Regulation (EC) N°2494/95:

"The provisions of Regulation (EC) No 2494/95 do not affect Article 105(4) EC which provides that the ECB shall be consulted on any proposed Community act in the fields of its competence."

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<sup>1</sup> COM(2008)71 final



### **Point 3.3. Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics**

The proposal to align regulation (EC) No 1165/98 concerns 12 powers specified in Article 17. The alignment is correct for all ten that are made subject to the regulatory procedure with scrutiny and for one of the two that are made subject to the regulatory procedure.

However, Article 17h) would require an amendment. It allows the Commission to decide on transition periods and derogations during these periods. This power is made subject to the regulatory procedure. However, the adoption of a transition period must be considered as a modification of the elements of the regulation and must therefore be made subject to the regulatory procedure with scrutiny. It would be possible to separate the power to adopt decisions on derogations from this power and leave that power under the regulatory procedure.

In respect of the legislative drafting quality and the clarity of the act the proposal contains a series of problems.

- First of all, Article 17 is formulated as if the powers were examples of powers and that the Commission might also have other powers. However, no procedure is provided for such further powers. Preferably it should be clarified whether there is to be any such general unspecified power. If this is not the case the words "*in particular*" should be taken out of Article 17.
- Secondly, powers are conferred not only the central part of the text but also in the annexes. This makes it more difficult to identify all the powers that are conferred on the Commission. At the very least, Article 17 should contain the information that the power in question is further specified in the annexes (preferably with indication of the exact provisions of the annexes that are concerned).
- Thirdly, it would appear that one of the powers, the first one under Annex A is only provided for in the annex. If this power is not covered by any of the powers under Article 17 it should be added to the list of specific powers in that Article.

I would be grateful if you could integrate these remarks in your report. I am obviously available to further discuss the issue with you.

Yours sincerely,

Pervenche Berès

## LETTER OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

Mr Giuseppe GARGANI  
Chairman  
Committee on Legal Affairs  
ASP 9E206

D(2008)21526

**Opinion of the Committee on Employment and Social Affairs to the Committee on Legal Affairs on the Proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny  
COM(2008)0071 final 2008/0032 (COD)**

Dear Mr Chairman,

On 13 March 2008 the President announced the above-mentioned Commission proposal in plenary.

Your Committee on Legal Affairs has been declared the committee responsible for the entire Commission proposal and our Committee on Employment and Social Affairs has been asked for an opinion on the following paragraphs in the Annex: paragraphs 3.2, 3.4, 3.5 and 3.6.

These paragraphs in the Annex to the Commission proposal refer to the adaptation of the following legislative acts:

**Annex 3.2:** Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community;

**Annex 3.4:** Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs;

**Annex 3.5:** Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003 concerning the labour cost index;

**Annex 3.6:** Regulation (EC) No 1552/2005 of the European Parliament and of the Council of 7 September 2005 on statistics relating to vocational training in enterprises.

On 1 April 2008 the Committee on Employment and Social Affairs appointed its chairman, Mr Jan Andersson, as draftsman. At the same meeting it was decided to issue this opinion in the form of a letter.

On 6 May 2008 the Committee on Employment and Social Affairs discussed the above-mentioned paragraphs of the Annex to the Commission proposal.

Our committee takes the view that:

1. the Commission proposal complies with the joint statement of the European Parliament, the Council and the Commission (OJ C 255, 21.10.2006) on Decision 2006/512/EC and adapts the basic acts to the procedures applicable,
2. these modifications concern comitology procedures alone,
3. with regard to Article 9 of Regulation 450/2003, the Commission's approach is acceptable. The Commission proposes the application of the regulatory procedure in accordance with Articles 5 and 7 of Decision 1999/468/EC, in compliance with the provisions of Article 8 of that decision, for the treatment of transitional periods and derogations (Article 9). The Employment Committee accepts this approach since, in this case, the measures are only individual ones (rather than general ones) and were only applicable until 2 April 2005.

The Committee on Employment and Social Affairs decided<sup>1</sup> to adopt this OPINION in the form of a letter and to call on the Committee on Legal Affairs to approve the Commission proposal without amendment with regard to the paragraphs which concern it.

Yours sincerely,

Jan Andersson

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<sup>1</sup> The following full Members were present for the final vote: Jan Andersson, Edit Bauer, Emine Bozkurt, Iles Braghetto, Philip Bushill-Matthews, Alejandro Cercas, Ole Christensen, Jean Louis Cottigny, Gabriela Crețu, Proinsias De Rossa, Harald Ettl, Richard Falbr, Carlo Fatuzzo, Petru Filip, Joel Hasse Ferreira, Stephen Hughes, Karin Jöns, Ona Juknevičienė, Jan Jerzy Kułakowski, Jean Lambert, Raymond Langendries, Elizabeth Lynne, Jamila Madeira, Thomas Mann, Jan Tadeusz Masiel, Maria Matsouka, Elisabeth Morin, Juan Andrés Naranjo Escobar, Csaba Óry, Siiri Oviir, Marie Panayotopoulos-Cassiotou, Jacek Protasiewicz, Bilyana Ilieva Raeva, Elisabeth Schroedter, José Albino Silva Peneda, Csaba Sógor, Jean Spautz, Ewa Tomaszewska, Anne Van Lancker.

5.6.2008

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY**

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny

Adaptation to the regulatory procedure with scrutiny – Part Four  
(COM(2008)0071 – C6-0065/2008 – 2008/0032(COD))

Draftsman: Miroslav Ouzký

### **AMENDMENTS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

#### **Amendment 1**

##### **Proposal for a regulation – amending act**

##### **Annex – section 1.5 – point -1 (new)**

Directive 2001/20/EC

Article 1 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

***(-1) In Article 1(3), the first subparagraph is replaced by the following:***

***"3. The Commission shall adopt and, if necessary, revise the principles of good clinical practice and detailed guidelines in line with those principles [...] to take account of technical and scientific progress [...]."***

*Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3)."*

## **Amendment 2**

**Proposal for a regulation – amending act**  
**Annex – section 2.3 – point 7 a (new)**  
Regulation (EC) No 2037/2000  
Article 11 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(7a) In Article 11, paragraph 3 is replaced by the following:*

**"3. From 1 January 2004, exports from the Community of hydrochlorofluorocarbons to any State not party to the Protocol shall be prohibited. The Commission shall [...] examine the above date in the light of relevant international developments under the Protocol and modify it as appropriate.**

*Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3)."*

## **Amendment 3**

**Proposal for a regulation – amending act**  
**Annex – section 2.6 – point 1**  
Directive 2006/21/EC  
Article 22 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. By 1 May 2008, the Commission shall lay down provisions necessary for the following, prioritising (b), (c) and (d):

(a) the implementation of Article 13(6),

2. By 1 May 2008, the Commission shall lay down provisions necessary for the following, prioritising (b), (c) and (d):

(a) the implementation of Article 13(6),

including technical requirements relating to the definition of weak acid dissociable cyanide and its measurement method;

(b) the completion of the technical requirements for waste characterisation contained in Annex II;

(c) the interpretation of the definition contained in point 3 of Article 3;

(d) the definition of the criteria for the classification of waste facilities in accordance with Annex III

(e) the determination of any harmonised standards for sampling and analysis methods needed for the technical implementation of this Directive. *Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).*

including technical requirements relating to the definition of weak acid dissociable cyanide and its measurement method;

(b) the completion of the technical requirements for waste characterisation contained in Annex II;

(c) the interpretation of the definition contained in point 3 of Article 3;

(d) the definition of the criteria for the classification of waste facilities in accordance with Annex III;

(e) the determination of any harmonised standards for sampling and analysis methods needed for the technical implementation of this Directive.

*Those measures, designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).*

*(The amendment means that the last paragraph will cover points (a) to (e))*

#### **Amendment 4**

##### **Proposal for a regulation – amending act**

##### **Annex – section 5.1 – point 2**

Regulation (EC) No 315/93

Article 4 – paragraph 2

*Text proposed by the Commission*

(2) *In* Article 4(2), *the words "Article 8" are replaced by the words "Article 8(2)".*

*Amendment*

(2) Article 4(2) *is* replaced by *the following*:

**"2. The Commission shall examine the reasons given by the Member State referred to in paragraph 1 as soon as**

possible in the Standing Committee for Foodstuffs, set up by Decision 69/314/EEC (1), and shall deliver its opinion immediately and take any necessary measures *aimed at confirming, amending or repealing the national measure* in accordance with the regulatory procedure laid down in *Article 8(2)*."

## Amendment 5

### Proposal for a regulation – amending act

#### Annex – section 5.2 – point 2

Directive 93/74/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

(2) *In* Article 8(2), *the words "Article 9" are replaced by the words "Article 9(2)".*

*Amendment*

(3) Article 8(2) *is* replaced by *the following:*

**"2. The Commission shall initiate as soon as possible the *regulatory procedure laid down in Article 9(2)* with a view to adopting any appropriate measures *aimed at confirming, amending or repealing the national measure.*"**

## Amendment 6

### Proposal for a regulation – amending act

#### Annex – section 5.2 – point 3

Directive 93/74/EC

Article 9 – paragraph 3

*Text proposed by the Commission*

3. Where reference is made to this paragraph, Article 5a(1) to (4) **and 5(b)**, and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision***

*Amendment*

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*1999/468/EC shall be set at two months, one month and two months respectively.*

#### **Amendment 7**

**Proposal for a regulation – amending act**  
**Annex – section 5.3 – point 6 a (new)**  
Directive 96/23/EC  
Article 29 – paragraph 1 – subparagraph 4

*Text proposed by the Commission*

*Amendment*

***(6a) In Article 29(1), the fourth subparagraph is replaced by the following:***

**"The Commission shall approve the plan in accordance with the *regulatory* procedure laid down in *Article 33(2)*. Under the same procedure, guarantees alternative to those resulting from the implementation of this Directive may be accepted."**

#### **Amendment 8**

**Proposal for a regulation – amending act**  
**Annex – section 5.4 – point 7**  
Regulation (EC) No 258/97  
Article 12 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(7) In Article 12(2), the words "Article 13" are replaced by the words "Article 13(2)".***

***(7) Article 12(2) is replaced by the following:***

**"2. The Commission shall examine the grounds referred to in paragraph 1 as soon as possible within the Standing Committee for Foodstuffs; it shall take the appropriate measures *aimed at confirming, amending or repealing the national measure* in accordance with the *regulatory* procedure laid down in *Article 13(2)*. The Member State which took the decision referred to in paragraph 1 may**



**maintain it until the measures have entered into force."**

## **Amendment 9**

**Proposal for a regulation – amending act**  
**Annex – section 5.5 – point 3 – point a**  
Decision 2119/98/EC  
Article 7 – paragraph 3

*Text proposed by the Commission*

3. Where reference is made to this paragraph, Article 5a(1) to (4) **and (5)(b)**, and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

*Amendment*

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

## **Amendment 10**

**Proposal for a regulation – amending act**  
**Annex – section 5.6 – point 2 – point aa (new)**  
Directive 2000/13/EC  
Article 6 – paragraph 6 – subparagraph 2 – indent 1

*Text proposed by the Commission*

*Amendment*

***(aa) in paragraph 6, second subparagraph, the first indent is replaced by the following:***

**"- ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category.**

***Alterations to the list of categories in Annex I may be effected by the Commission. Those measures, designed to amend non-essential elements of this***

***Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 20(3).***

**However, the designation ‘starch’ listed in Annex I must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,”**

## **Amendment 11**

### **Proposal for a regulation – amending act**

#### **Annex – section 5.6 – point 2 – point b**

Directive 2000/13/EC

Article 6 – paragraph 6 – subparagraph 2 – indent 2

#### *Text proposed by the Commission*

- ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated;

Amendments to this Annex based on advances in scientific and technical knowledge, measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(4)**;

However, the designation ‘modified starch’ listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,

#### *Amendment*

- ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated.

Amendments to this Annex based on advances in scientific and technical knowledge, measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 20(3)**.

However, the designation ‘modified starch’ listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,

## Amendment 12

### Proposal for a regulation – amending act

#### Annex – section 5.6 – point 2 – point d

Directive 2000/13/EC

Article 6 – paragraph 11 – subparagraph 3

#### *Text proposed by the Commission*

Without prejudice to the second subparagraph, Annex IIIa may be amended by the Commission, after an opinion has been obtained from the European Food Safety Authority issued on the basis of Article 29 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (\*). Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 20(4)*.

#### *Amendment*

Without prejudice to the second subparagraph, Annex IIIa may be amended by the Commission, after an opinion has been obtained from the European Food Safety Authority issued on the basis of Article 29 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (\*). Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in *Article 20(3)*.

## Amendment 13

### Proposal for a regulation – amending act

#### Annex – section 5.6 – point 5 a (new)

Directive 2000/13/EC

Article 12 – paragraph 2

#### *Text proposed by the Commission*

#### *Amendment*

***(5a) In Article 12, the second paragraph is replaced by the following:***

**"In the case of other beverages containing more than 1,2 % by volume of alcohol, these rules shall be laid down by the Commission.**

***Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny***

*referred to in Article 20(3)".*

#### **Amendment 14**

**Proposal for a regulation – amending act**  
**Annex – section 5.6 – point 7 – point b**  
Directive 2000/13/EC  
Article 20 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(b) the following paragraph 4 is added:***

***deleted***

***"4. Where reference is made to this paragraph, Article 5a(1) to (4) and 5(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively."***

#### **Amendment 15**

**Proposal for a regulation – amending act**  
**Annex – section 5.7 – point 2**  
Directive 2001/37/EC  
Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The adaptation to scientific and technical progress of the measurements methods laid down in Article 4 and the definitions relating thereto shall be decided by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in ***Article 10(4)***.

1. The adaptation to scientific and technical progress of the measurements methods laid down in Article 4 and the definitions relating thereto shall be decided by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in ***Article 10(3)***.

## Amendment 16

### Proposal for a regulation – amending act

#### Annex – section 5.7 – point 3

Directive 2001/37/EC

Article 10 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**deleted**

**The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.**

## Amendment 17

### Proposal for a regulation – amending act

#### Annex – section 5.8 – point 2

Directive 2001/95/EC

Article 5 – paragraph 3 - subparagraph 2

*Text proposed by the Commission*

*Amendment*

The Commission shall adapt the specific requirements relating to the obligation to provide information laid down in Annex I. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(5)**.

The Commission shall adapt the specific requirements relating to the obligation to provide information laid down in Annex I. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(4)**.

## Amendment 18

### Proposal for a regulation – amending act

#### Annex – section 5.8 – point 3

Directive 2001/95/EC

Article 12 – paragraph 3

*Text proposed by the Commission*

Detailed procedures for RAPEX are set out in Annex II. They shall be adapted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(5)**.

*Amendment*

3. Detailed procedures for RAPEX are set out in Annex II. They shall be adapted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 15(4)**.

**Amendment 19**

**Proposal for a regulation – amending act  
Annex – section 5.8 – point 4**

Directive 2001/95/EC  
Article 15 – paragraph 5

*Text proposed by the Commission*

**5. Where reference is made to this paragraph, Article 5a paragraphs 1 to 4 and 5 (b) and Article 7 of the Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**The time limits laid down in Article 5a(3)(c) and (4) (b) and (e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.**

*Amendment*

**deleted**

**Amendment 20**

**Proposal for a regulation – amending act  
Annex – section 5.10 – point 8**

Regulation (EC) No 1774/2002  
Article 22 – paragraph 2

*Text proposed by the Commission*

2. Rules for the implementation of this Article, including rules concerning control measures, shall be adopted **in accordance with the procedure referred to in Article 33(2)**. Derogations from paragraph 1(a) of this Article may be granted by the

*Amendment*

2. Rules for the implementation of this Article, including rules concerning control measures, shall be adopted **by the Commission. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be**

Commission in relation to fish and fur animals, after consultation of the appropriate scientific committee. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3).

*adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3).* Derogations from paragraph 1(a) of this Article may be granted by the Commission in relation to fish and fur animals, after consultation of the appropriate scientific committee. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3).

## **Amendment 21**

**Proposal for a regulation – amending act**  
**Annex – section 5.10 – point 12 a (new)**  
Regulation (EC) No 1774/2002  
Article 29 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

*(12a) In Article 29(4), the first subparagraph is replaced by the following:*

**"4. Products referred to in Annexes VII and VIII, except for technical products, must come from plants on a Community list drawn up by the Commission on the basis of a communication from the competent authorities of the third country to the Commission declaring that the plant complies with the Community requirements and is subject to supervision by an official inspection service in the third country.**

*Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3)."*

## Amendment 22

### Proposal for a regulation – amending act

Annex – section 5.10 – point 20 - point a - subpoint (-i) (new)

Regulation (EC) No 1774/2002

Annex VIII – chapter IV – part A – point 3 – point a - subpoint ii – indent 5

*Text proposed by the Commission*

*Amendment*

***(-i) in point 3(a)(ii), the fifth indent is replaced by the following:***

***"— any other treatment provided for by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(3);"***

## Amendment 23

### Proposal for a regulation – amending act

Annex – section 5.11 – point 1

Directive 2002/98/EC

Article 28 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***deleted***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

## Amendment 24

### Proposal for a regulation – amending act

Annex – section 5.11 – point 2 – point c

Directive 2002/98/EC

Article 29 – new paragraphs



*Text proposed by the Commission*

Technical requirements referred to in points (a), **(h) and (i)** of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(3).

***Technical requirements referred to in points (b), (c), (d), (e), (f) and (g), of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).*** On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 28(5) as regards technical requirements referred to in points (b), (c) and (d) of the second paragraph.

**Amendment 25**

**Proposal for a regulation – amending act**  
**Annex – section 5.12 – point 1**  
Regulation (EC) No 1831/2003  
Article 3 – paragraph 5

*Text proposed by the Commission*

5. Where necessary, as a result of technological progress or scientific development, the Commission may adapt the general conditions set out in Annex IV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(4)**.

*Amendment*

Technical requirements referred to in points (a) **to (i)** of the second paragraph, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(3).

On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 28(5) as regards technical requirements referred to in points (b), (c) and (d) of the second paragraph.

*Amendment*

5. Where necessary, as a result of technological progress or scientific development, the Commission may adapt the general conditions set out in Annex IV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(3)**.

## Amendment 26

### Proposal for a regulation – amending act

#### Annex – section 5.12 – point 2

Regulation (EC) No 1831/2003

Article 6 – paragraph 3

#### *Text proposed by the Commission*

3. Where necessary, as a result of technological progress or scientific development, the Commission shall establish additional feed additive categories and functional groups. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(4)**.

#### *Amendment*

3. Where necessary, as a result of technological progress or scientific development, the Commission shall establish additional feed additive categories and functional groups. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(3)**.

## Amendment 27

### Proposal for a regulation – amending act

#### Annex – section 5.12 – point 4

Regulation (EC) No 1831/2003

Article 16 – paragraph 6

#### *Text proposed by the Commission*

The Commission may adopt amendments to Annex III to take technological progress and scientific development into account. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(4)**.

#### *Amendment*

6. The Commission may adopt amendments to Annex III to take technological progress and scientific development into account. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(3)**.

## Amendment 28

### Proposal for a regulation – amending act

#### Annex – section 5.12 – point 5

Regulation (EC) No 1831/2003

Article 21 – paragraph 3

*Text proposed by the Commission*

Detailed rules for implementing Annex II **and any amendments to that Annex** shall be adopted in accordance with the procedure referred to in Article 22(2).

Annex II may be amended by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(4)**.

**Amendment 29**

**Proposal for a regulation – amending act  
Annex – section 5.12 – point 6 – point b  
Regulation (EC) No 1831/2003  
Article 22 – paragraph 4**

*Text proposed by the Commission*

**(b) paragraph 4 is added:**

**"4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively."**

**Amendment 30**

**Proposal for a regulation – amending act  
Annex – section 5.13 – point -1 (new)  
Regulation (EC) No 2065/2003  
Article 6 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Detailed rules for implementing Annex II shall be adopted in accordance with the procedure referred to in Article 22(2).

Annex II may be amended by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 22(3)**.

*Amendment*

**deleted**

*Amendment*

**(-1) In Article 6, paragraph 1 is replaced**

*by the following:*

**"1. A list of the primary products authorised to the exclusion of all others in the Community for use as such in or on foods and/or for the production of derived smoke flavourings shall be established by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

### **Amendment 31**

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point -1 a (new)**  
Regulation (EC) No 2065/2003  
Article 6 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(-1a) In Article 6, paragraph 3 is replaced by the following:***

**"3. Following the establishment of the list referred to in paragraph 1, primary products may be added to that list. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

### **Amendment 32**

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point -1 b (new)**  
Regulation (EC) No 2065/2003  
Article 17 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(-1b) In Article 17, paragraph 3 is***

*replaced by the following:*

**" 3. If necessary, the Commission shall, after having requested scientific and technical assistance from the Authority, adopt quality criteria for validated analytical methods proposed in accordance with point 4 of Annex II, including substances to be measured [...]. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3)."**

### **Amendment 33**

**Proposal for a regulation – amending act**  
**Annex – section 5.13 – point 1**  
Regulation (EC) No 2065/2003  
Article 18 – paragraph 2

*Text proposed by the Commission*

2. Amendments to the list referred to in Article 6(1) shall be adopted *in accordance with the procedure referred to in Article 19(2)* following consultation of the Authority for scientific and/or technical assistance.

*Amendment*

2. Amendments to the list referred to in Article 6(1) shall be adopted **by the Commission** following consultation of the Authority for scientific and/or technical assistance. **Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).**

### **Amendment 34**

**Proposal for a regulation – amending act**  
**Annex – section 5.15 – point 1 a (new)**  
Directive 2004/23/EC  
Article 9 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**(1a) In Article 9, paragraph 4 is replaced by the following:**

**"4. The procedures for verifying the equivalent standards of quality and safety in accordance with paragraph 1 shall be established by the Commission [...]. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3)."**

## **Amendment 35**

**Proposal for a regulation – amending act**  
**Annex – section 5.15 – point 2 – point b**  
Directive 2004/23/EC  
Article 28 – new paragraphs

*Text proposed by the Commission*

1. Technical requirements referred to in points (a), **(b), (c), (f), (g) and (i)**, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3).

2. ***Technical requirements referred to in points (d), (e) and (h), measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(4).*** On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 29(5) as regards technical requirements referred to in points (d) and (e) of Article 28.

*Amendment*

1. Technical requirements referred to in points (a) **to (i)**, measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(3).

2. On imperative grounds of urgency the Commission may use the urgent procedure referred to in Article 29(5) as regards technical requirements referred to in points (d) and (e) of Article 28.

## **Amendment 36**

**Proposal for a regulation – amending act**  
**Annex – section 5.15 – point 4 – point b**  
Directive 2004/23/EC  
Article 29 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

**deleted**

**The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.**

### **Amendment 37**

**Proposal for a regulation – amending act  
Annex – section 5.16 – point 1 a (new)  
Regulation (EC) No 882/2004  
Article 15 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**(1a) In Article 15, paragraph 5 is replaced by the following:**

**"5. A list of feed and food of non-animal origin that is, on the basis of known or emerging risk, to be subject to an increased level of official controls at the point of entry into territories referred to in Annex I shall be drawn up and updated by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4).**

**The frequency and nature of these controls shall be laid down in accordance with the same procedure. At the same time, the fees related to such controls may be established in accordance with the same procedure."**

## Amendment 38

**Proposal for a regulation – amending act**  
**Annex – section 5.16 – point 5 a (new)**  
Regulation (EC) No 882/2004  
Article 32 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***(5a) In Article 32, paragraph 6 is replaced by the following:***

***"6. Additional responsibilities and tasks for Community reference laboratories may be laid down by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4)."***

## Amendment 39

**Proposal for a regulation – amending act**  
**Annex – section 5.16 – point 5 b (new)**  
Regulation (EC) No 882/2004  
Article 33 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***(5b) In Article 33, paragraph 6 is replaced by the following:***

***"6. Additional responsibilities and tasks for national reference laboratories may be laid down by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 62(4)."***



## Amendment 40

### Proposal for a regulation – amending act

#### Annex – section 5.17 – point 1 – point b

Regulation (EC) No 1935/2004

Article 5 – paragraph 1 - new subparagraphs

#### *Text proposed by the Commission*

The specific measures referred to in point (m) shall be adopted by the Commission in accordance with the procedure referred to in Article 23(2).

The specific measures referred to in points **(f), (g), (h), (i), (j), (k)**, (l) and (n), measures designed to amend non elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

***The specific measures referred to in points (a) to (e), measures designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(4).***

#### *Amendment*

The specific measures referred to in point (m) shall be adopted by the Commission in accordance with the procedure referred to in Article 23(2).

The specific measures referred to in points **(a) to** (l) and (n), measures designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

## Amendment 41

### Proposal for a regulation – amending act

#### Annex – section 5.17 – point 1 – point c

Regulation (EC) No 1935/2004

Article 5 – paragraph 2

#### *Text proposed by the Commission*

2. The Commission may amend the existing specific directives on materials and articles. Those measures, designed to amend the non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(4)**.

#### *Amendment*

2. The Commission may amend the existing specific directives on materials and articles. Those measures, designed to amend the non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(3)**.

## Amendment 42

### Proposal for a regulation – amending act

#### Annex – section 5.17 – point 3

Regulation (EC) No 1935/2004

Article 11 – paragraph 3

#### *Text proposed by the Commission*

Community authorisation in the form of specific measure, as referred to in paragraph 1, shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(4)**.

#### *Amendment*

3. Community authorisation in the form of specific measure, as referred to in paragraph 1, shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(3)**.

## Amendment 43

### Proposal for a regulation – amending act

#### Annex – section 5.17 – point 4

Regulation (EC) No 1935/2004

Article 12 – paragraph 6

#### *Text proposed by the Commission*

A final specific measure on the modification, suspension or revocation of the authorisation shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(4)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 23(5).

#### *Amendment*

6. A final specific measure on the modification, suspension or revocation of the authorisation shall be adopted by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in **Article 23(3)**. On imperative grounds of urgency, the Commission may use the urgent procedure referred to in Article 23(5).

## **Amendment 44**

**Proposal for a regulation – amending act**  
**Annex – section 5.17 – point 6 – point b**  
Regulation (EC) No 1935/2004  
Article 23 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***

***deleted***

***The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.***

## PROCEDURE

|   |  |
|---|--|
| <b>Title</b>                                    | Adaptation of a number of instruments subject to Decision 1999/468/EC - Adaptation to the regulatory procedure with scrutiny (Part Four)   |
| <b>References</b>                               | COM(2008)0071 – C6-0065/2008 – 2008/0032(COD)  |
| <b>Committee responsible</b>                    | JURI   |
| <b>Opinion by</b><br>Date announced in plenary  | ENVI<br>13.3.2008  |
| <b>Drafts(wo)man</b><br>Date appointed          | Miroslav Ouzký<br>27.2.2008  |
| <b>Discussed in committee</b>                   | 5.5.2008   |
| <b>Date adopted</b>                             | 3.6.2008   |
| <b>Result of final vote</b>                     | +: 52<br>-: 0<br>0: 0  |
| <b>Members present for the final vote</b>       | Georgs Andrejevs, Margrete Auken, Pilar Ayuso, Irena Belohorská, Johannes Blokland, John Bowis, Frieda Brepoels, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Anne Ferreira, Matthias Groote, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Gyula Hegyi, Marie Anne Isler Béguin, Christa Kläß, Eija-Riitta Korhola, Peter Liese, Jules Maaten, Roberto Musacchio, Riitta Myller, Péter Olajos, Miroslav Ouzký, Vladko Todorov Panayotov, Vittorio Prodi, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Kathy Sinnott, María Sornosa Martínez, Anja Weisgerber, Åsa Westlund, Anders Wijkman, Glenis Willmott |
| <b>Substitute(s) present for the final vote</b> | Inés Ayala Sender, Iles Braghetto, Philip Bushill-Matthews, Bairbre de Brún, Genowefa Grabowska, Rebecca Harms, Henrik Lax, Johannes Lebech, Miroslav Mikolášik  |

## LETTER OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

Mr Giuseppe Gargani  
Chairman of the Committee on Legal Affairs  
ASP 9 E 206

Ref.: D(2008)16324  
JG/

Brussels,

**Subject: Proposals for Regulations of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny (COM(2007)0741, "omnibus I"), (COM(2007)0824, "omnibus II"), (COM(2008)0071 final, "omnibus IV").**

Dear Mr Gargani, dear Mr Szájer,

The Committee on Industry, Research and Energy (ITRE) has scrutinized the instruments pertaining to its fields of competence included in the above mentioned proposals.

Having consulted the coordinators, I provide you in the form of the attached tables the opinion of ITRE on the alignment proposals.

After careful examination we have concluded that three instruments (Regulation 733/2002 on the .eu Top Level Domain, Council Regulation 3924/91 establishing a survey on industrial production and Directive 1999/5/EC on radio and telecommunications terminal equipment) are not correctly aligned, and that a fourth instrument (Directive 2004/8/EC on the promotion of cogeneration) requires a technical adaptation.

Furthermore, the review of the *acquis communautaire* in the field of telecommunications has revealed that the Radio Spectrum Decision 676/2002/EC (harmonisation measures in the field of spectrum) has been omitted by the Commission in its proposals for alignment. We agree with the rapporteur's approach to group all the omitted acts and under Rule 39 request the Commission to submit further legislative proposals to align these instruments.

Yours sincerely,

Angelika Niebler

C/c: Mr Szájer  
Encl.: table omnibus 1, table omnibus 2, table omnibus 4.

| Basic acts to be aligned  | Observations JURI<br>Committee Secretariat | Observations ITRE<br>Committee Secretariat   |
|---|--|--|
| <p>Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<br/>COM (2008) 71 final - 2008/0032 (COD) - point 1.3.</p> |  | <p><b>Not correctly aligned</b></p> <p><b>Article 5 (3) should be aligned to RPS.</b> The corrections to harmonised standards are quasi-legislative measures.</p> <p>Articles 13 and 14 should be aligned to the new Comitology Decision and should be merged into one Article together with Article 15.</p> |

## LETTER OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

Mr Giuseppe GARGANI  
Chairman  
Committee on Legal Affairs  
ASP 09E206  
Brussels

### **Concerns: IMCO Opinion on the Proposal for a Regulation "Adaptation to the Regulatory Procedure with Scrutiny, Part Four", COM (2008)0071, COD 2008/0032**

Dear Colleague,

The Committee on the Internal Market and Consumer Protection has received, for opinion, parts of the above-mentioned legislative proposal, adapting the comitology provisions of a list of legislative instruments to the "regulatory procedure with scrutiny" ("RPS").

At its meeting of 8 April 2008, the Committee discussed and adopted by 39 votes the suggestions relating to the five legislative acts within its area of competence.

#### 1.2. Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices

The proposal partially aligns the Directive to the Regulatory Procedure with Scrutiny.

The Committee accepts the reference to the standards Regulatory Procedure being maintained for the adoption of procedures in Articles 10(5), Article 11(5) and Article 12(3).

The Committee does agree with a reference to the regulatory procedure being maintained in Article 14(1)(b), as this concerns the application of derogation measures for individual Member States.

#### 1.7. Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast)

The proposal partially aligns the Directive to the Regulatory Procedure with Scrutiny.

In Article 8(2), reference to the advisory procedure is retained for "any appropriate measure connected with the implementation and practical application of this Directive". The Committee **is of the opinion** that, in view of the general nature of the implementing power

given to the Commission, also in Article 8(2) reference must be made to the Regulatory Procedure with Scrutiny.

4.1. Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV)

The proposal fully aligns Regulation (EC) No 2195/2002 to the Regulatory Procedure with Scrutiny.

However, the Commission reserves the right, when there are imperative grounds of urgency, to use the urgent Regulatory Procedure with Scrutiny, reducing the Parliament's time-limit for scrutiny to one month. The Committee **is of the opinion** that the reference to the urgency procedure is not necessary in this case, and therefore suggests that it **be deleted**.

4.2. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors

The proposal only partially aligns the Directive to the Regulatory Procedure with Scrutiny.

The RPS is introduced for the revision of the thresholds and for the measures listed in Article 70 (2). However, the Commission reserves the right to use the 'urgent' RPS where there are imperative grounds of urgency. This urgent procedure is reducing the Parliament's time-limit for scrutiny to one month. The Committee **is of the opinion** that the reference to the urgent procedure in this case is not necessary and suggests that it **be deleted**.

Moreover, the Committee **does not accept** the application of the RPS to Article 69(1) and (2) will be subjected to the application of curtailed time-limits (two weeks), since this may make it practically impossible for the European Parliament to react. It **suggests** that reference be made to the normal time-limits for Parliament's right of scrutiny.

The Committee accepts the reference to the advisory procedure being maintained in Article 70 (1) for amendments to certain procedures for sending and publishing data and for the drawing-up, transmission, receipt, translation, collection and distribution of notices and statistical reports.

4.3. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

The proposal only partially aligns the Directive to the Regulatory Procedure with Scrutiny.

The RPS is introduced for the revision of the thresholds and for the measures listed in Article 79 (2). However, the Commission reserves the right to use the 'urgent' RPS where there are



imperative grounds of urgency. This urgent procedure is reducing the Parliament's time-limit for scrutiny to one month. The Committee **is of the opinion** that the reference to the urgent procedure in this case is not necessary and suggests that it **be deleted** from Article 78 (1), first subparagraph and Article 79 (2), last subparagraph.

Moreover, the Committee **does not accept** the application of the RPS to Article 78(1) and (2) and to Article 79(2) will be subjected to the application of curtailed time-limits (two weeks), since this may make it practically impossible for the European Parliament to react. It **suggests** that reference be made to the normal time-limits for Parliament's right of scrutiny.

The Committee accepts that the reference to the advisory procedure is being maintained in Article 76(3) as regards the statistical information to be included in the statistical report and in Article 79(1) for amendments to certain procedures for sending and publishing data and for the drawing-up, transmission, receipt, translation, collection and distribution of notices and statistical reports.

Yours sincerely,

Arlene McCARTHY

Manuel MEDINA ORTEGA  
Draftsman

cc. Mr József SZAJER, Rapporteur

## LETTER OF THE COMMITTEE ON TRANSPORT AND TOURISM

Mr Giuseppe GARGANI  
Chairman of the Committee on Legal Affairs  
ASP 09E206  
Brussels

TRAN/D/2008/23570

*Subject: Proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny - Adaptation to the regulatory procedure with scrutiny - Part Four - (COM(2008)0071 - 2008/0032 (COD))*

Dear Mr Gargani, dear colleague,

The Committee on Transport and Tourism at its meeting of 6 May 2008 has examined the proposal referred above pursuant to the decision of the Conference of Presidents (CoP) of 12 December 2007 to designate the committee on Legal Affairs as the lead Committee to deal with the revision of existing legislative measures to be adapted to the new regulatory procedure with scrutiny and to ensure that the specialised committees are associated by opinions.

The Committee on Transport and Tourism unanimously recommends your committee, as the committee responsible, to accept the alignment of the seven instruments of the fourth omnibus Commission's proposal which fall under the remit of the committee on Transport and Tourism with the modifications (amendments) as proposed in the annex.

Yours sincerely,

Paolo Costa

Annex: List

Cc: Mr Jarzembowski, draftsman TRAN  
Mr Szájer, rapporteur JURI

## ANNEX

### The 7 instruments in COM(2008)0071 (fourth omnibus)

| INSTUMENT FOR TRAN COMMITTEE   | REMARKS/MODIFICATIONS  |
|--|--|
| 1. Council Directive 96/98/EC of 20 December 1996 on <b>marine equipment</b> <sup>1</sup>  | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 13(2) concerning shortcomings in the testing standards.<br><i>Position: RPS should apply when Commission initiates changes in the testing standards due to shortcomings.</i>  |
| 2. Regulation (EC) 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on <b>maritime safety and the prevention of pollution from ships</b> <sup>2</sup>                   | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 5(3) concerning conformity checking procedure.<br><i>Position: accepted.</i>  |
| 3. Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on <b>occurrence reporting in civil aviation</b> <sup>3</sup>  | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 7(2) concerning associated conditions for individual measures.<br><i>Position: associated conditions should concern only general measures.</i>  |
| 4. Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the <b>safety of third-country aircraft using Community airports</b> <sup>4</sup>  | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 6(3) concerning associated conditions for individual measures and Article 8(2) on safety improvement and implementation measures.<br><i>Position:</i><br>- <i>associated conditions should concern only general measures.</i><br>- <i>RPS should apply for the establishment of the list of information to be collected and the creation or supporting of appropriate bodies in Article 8(2).</i> |
| 5. Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning <b>protection against subsidisation and unfair pricing practices</b> causing injury to Community air carriers in the supply of air services from countries not members of the European Community <sup>5</sup> | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 7(2) on the initiation of proceedings related to the lodging of complaint and their extension, for 10(2) concerning provisional measures, for Article 12(1) concerning definitive measures, for Article 13(2) on undertakings and for Article 14(2) on reviews of the imposed measures.<br><i>Position: accepted.</i>   |
| 6. Directive 2004/54/EC of the European  | <b>Partial alignment to RPS</b> , with the regulatory procedure maintained for Article 13(3)   |

<sup>1</sup> OJ L 46, 17.2.1997, p. 25.

<sup>2</sup> OJ L 324, 29.11.2002, p. 1

<sup>3</sup> OJ L 167, 4.7.2003, p. 23

<sup>4</sup> OJ L 143, 30.4.2004, p. 76.

<sup>5</sup> OJ L 162, 30.4.2004, p. 1

|   |   |
|---|---|
| <p>Parliament and of the Council of 29 April 2004 on <b>minimum safety requirements for tunnels</b> in the Trans-European Road Network<sup>1</sup></p>  | <p>concerning proposals for the adoption of a common harmonised risk analysis methodology.<br/><i>Position: measures concerning adoption of a common harmonised risk analysis methodology should be adopted under RPS.</i></p>  |
| <p>7. Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a <b>Community list of air carriers subject to an operating ban</b> within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC<sup>2</sup></p> | <p><b>Partial alignment to RPS</b>, with the regulatory procedure maintained for Article 8(1) on implementing measures concerning detailed rules in respect of the procedures referred to the Chapter II 'Community list'.<br/><i>Position: the application of the regulatory procedure should not be defined for all measures provided under the Chapter II on Community list. The RPS should apply for measures to be adopted under Article 7 on rights to defence.</i></p> |

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<sup>1</sup> OJ L 167, 30.4.2004, p. 39.

<sup>2</sup> OJ L 344, 27.12.2005, p. 15.

## PROCEDURE

|   |   |              |           |           |
|---|---|--------------|-----------|-----------|
| <b>Title</b>  | Adaptation of a number of instruments subject to Decision 1999/468/EC - Adaptation to the regulatory procedure with scrutiny (Part Four)  |              |           |           |
| <b>References</b>   | COM(2008)0071 – C6-0065/2008 – 2008/0032(COD)   |              |           |           |
| <b>Date submitted to Parliament</b>                                   | 11.2.2008   |              |           |           |
| <b>Committee responsible</b><br>Date announced in plenary             | JURI<br>13.3.2008   |              |           |           |
| <b>Committee(s) asked for opinion(s)</b><br>Date announced in plenary | ECON  | EMPL         | ENVI      | ITRE      |
|   | 13.3.2008   | 13.3.2008    | 13.3.2008 | 13.3.2008 |
|   | IMCO  | TRAN         |           |           |
|   | 13.3.2008   | 13.3.2008    |           |           |
| <b>Not delivering opinions</b><br>Date of decision                    | ECON  | EMPL         | IMCO      | TRAN      |
|   | 11.3.2008   | 1.4.2008     | 25.3.2008 | 25.3.2008 |
| <b>Rapporteur(s)</b><br>Date appointed                                | József Szájer<br>19.12.2007   |              |           |           |
| <b>Discussed in committee</b>   | 27.3.2008   |              |           |           |
| <b>Date adopted</b>   | 26.6.2008   |              |           |           |
| <b>Result of final vote</b>   | +:<br>-:<br>0:  | 24<br>0<br>0 |           |           |
| <b>Members present for the final vote</b>                             | Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Neena Gill, Othmar Karas, Piia-Noora Kauppi, Klaus-Heiner Lehne, Hans-Peter Mayer, Manuel Medina Ortega, Hartmut Nassauer, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Rainer Wieland, Jaroslav Zvěřina, Tadeusz Zwiefka |              |           |           |
| <b>Substitute(s) present for the final vote</b>                       | Sharon Bowles, Vicente Miguel Garcés Ramón, Jean-Paul Gauzès, Eva Lichtenberger, József Szájer, Ieke van den Burg   |              |           |           |