

I

(Information)

COUNCIL

COMMON POSITION (EC) No 1/2002**adopted by the Council on 17 September 2001****with a view to adopting Directive 2002/.../EC of the European Parliament and of the Council on undesirable substances in animal feed**

(2002/C 4/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152(4)(b) thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

(1) Many amendments need to be made to Council Directive 1999/29/EC of 22 April 1999 on the undesirable substances and products in animal nutrition⁽⁴⁾. In the interests of clarity and efficiency the said Directive should be recast.

(2) Livestock production occupies a very important place in farming in the Community and satisfactory results in terms of public and animal health, animal welfare, the environment and the livestock producers' finances depend to a large extent on the use of appropriate good quality feedingstuffs.

(3) Rules on feedingstuffs are needed to ensure agricultural productivity and sustainability and to make it possible to ensure public and animal health, animal welfare and the environment. In addition, there is a need for comprehensive regulation on hygiene in order to guarantee good quality feedingstuffs on individual farms even when they are not commercially produced.

(4) The same rules concerning the quality and safety of products intended for animal feed have to apply to the quality and safety of water consumed by the animals. Although the definition of feedingstuffs does not preclude water being considered as feedingstuff, it is not included in the non-exhaustive list of main feed materials, laid down by Council Directive 96/25/EC of 29 April 1996 on the circulation and use of feed materials⁽⁵⁾. The issue of water to be considered as feedingstuffs needs to be examined in the framework of that Directive.

⁽¹⁾ OJ C 89 E, 28.3.2000, p. 70 and OJ C 96 E, 27.3.2001, p. 346.

⁽²⁾ OJ C 140, 18.5.2000, p. 9.

⁽³⁾ Opinion of the European Parliament of 4 October 2000 (OJ C 178, 22.6.2001, p. 160), Council Common Position of 17 September 2001 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ L 115, 4.5.1999, p. 32.

⁽⁵⁾ OJ L 125, 23.5.1996, p. 35. Directive as last amended by Directive 2000/16/EC of the European Parliament and of the Council (OJ L 105, 3.5.2000, p. 36).

- (5) It has been established that additives can contain undesirable substances. The scope of the Directive should therefore be extended to cover additives.
- (6) Products intended for animal feed may contain undesirable substances which can endanger animal health or, because of their presence in livestock products, human health or the environment.
- (7) It is impossible to eliminate fully the presence of undesirable substances but it is important that their content in products intended for animal feed should be reduced, with due regard to the substances' acute toxicity, bio-accumulability and degradability, in order to prevent undesirable and harmful effects. It is at present inappropriate to fix this content below the levels detectable by methods of analysis to be defined for the Community.
- (8) The methods for determining residues of undesirable substances are becoming increasingly sophisticated, so that even quantities of residues which are negligible for animal and human health can be detected.
- (9) Undesirable substances may be present in products intended for animal feed only in accordance with the conditions laid down in this Directive and may not be used in any other way for the purposes of animal feed. This Directive should therefore apply without affecting other Community provisions on feedingstuffs, and particularly the rules applicable to compound feedingstuffs.
- (10) This Directive must apply to products intended for animal feed as soon as they enter the Community. It must therefore be stipulated that the maximum levels of undesirable substances that are set apply in general from the date on which the products intended for animal feed are put into circulation or used, at all stages, and in particular as soon as they are imported.
- (11) Products intended for animal feed must be sound, genuine and of merchantable quality and therefore when correctly used must not represent any danger to human health, animal health or to the environment or adversely affect livestock production. Using or putting into circulation products intended for animal feed which contain levels of undesirable substances that exceed the maximum levels laid down in Annex I must therefore be prohibited.
- (12) The presence of certain undesirable substances in complementary feedingstuffs must be limited by fixing appropriate maximum levels.
- (13) While in certain cases a maximum level is fixed, taking account of background levels, continued effort is still needed to restrict the presence of some specific undesirable substances to the lowest possible levels in products intended for animal feed so as to reduce their presence in the feed and food chain. It should therefore be permitted, under this Directive, to lay down action thresholds well below the maximum levels fixed. Where such action thresholds are exceeded, investigations must be carried out to identify the sources of the undesirable substances and steps taken to reduce or eliminate such sources.
- (14) Where animal or human health or the environment is endangered, Member States should be allowed temporarily to reduce the fixed maximum permissible levels, to fix maximum levels for other substances or to prohibit the presence of such substances in products intended for animal feed. In order to ensure a uniform application, any amendments to Annex I to this Directive should be decided on by emergency Community procedure, on the basis of supporting documents and the precautionary principle.
- (15) Products intended for animal feed that satisfy the requirements of this Directive may not be subject to restrictions on entry into circulation, as regards the level of undesirable substances they contain, other than those provided for in this Directive and in Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organisation of official inspections in the field of animal nutrition ⁽¹⁾.
- (16) Member States must make appropriate monitoring arrangements pursuant to Directive 95/53/EC to ensure that the requirements regarding undesirable substances are met when products intended for animal feed are used or circulated.
- (17) An appropriate Community procedure is needed for adapting the technical provisions in the Annexes to this Directive in the light of developments in scientific and technical knowledge.
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- ⁽¹⁾ OJ L 265, 8.11.1995, p. 17. Directive as last amended by Directive 2001/46/EC of the European Parliament and of the Council (OJ L 234, 1.9.2001, p. 55).

(18) In order to facilitate implementation of the proposed measures, there should be a procedure for close cooperation between the Member States and the Commission within the Standing Committee for Feedingstuffs set up by Decision 70/372/EEC ⁽¹⁾.

(19) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive deals with undesirable substances in products intended for animal feed.

2. This Directive shall apply without prejudice to the provisions in:

- (a) Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽³⁾;
- (b) Council Directive 96/25/EC and Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs ⁽⁴⁾;
- (c) Council Directive 76/895/EEC of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables ⁽⁵⁾, Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals ⁽⁶⁾, Council Directive 86/363/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin ⁽⁷⁾ and Council

Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables ⁽⁸⁾, where these residues are not listed in Annex I to this Directive;

- (d) Community legislation concerning veterinary matters relating to public health and animal health;
- (e) Council Directive 82/471/EEC of 30 June 1982 concerning certain products used in animal nutrition ⁽⁹⁾;
- (f) Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes ⁽¹⁰⁾.

Article 2

For the purposes of this Directive:

- (a) 'feedingstuffs' shall mean products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the industrial processing thereof, and organic or inorganic substances, used singly or in mixtures, whether or not containing additives, for oral animal feeding;
- (b) 'feed materials' shall mean various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the industrial processing thereof, and organic or inorganic substances, whether or not containing additives, which are intended for use in oral animal feeding either directly as such or, after processing, in the preparation of compound feedingstuffs or as substrates for premixtures;
- (c) 'additives' shall mean additives as defined in Article 2(a) of Council Directive 70/524/EEC;
- (d) 'premixtures' shall mean mixtures of additives or mixtures of one or more additives with substances used as carriers, intended for the manufacture of feedingstuffs;
- (e) 'compound feedingstuffs' shall mean mixtures of feed materials, whether or not containing additives, which are intended for oral animal feeding as complete or complementary feedingstuffs;

⁽¹⁾ OJ L 170, 3.8.1970, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 270, 14.12.1970, p. 1. Directive as last amended by Regulation (EC) No 45/1999 (OJ L 6, 12.1.1999, p. 3).

⁽⁴⁾ OJ L 86, 6.4.1979, p. 30. Directive as last amended by Directive 2000/16/EC.

⁽⁵⁾ OJ L 340, 9.12.1976, p. 26. Directive as last amended by Commission Directive 2000/57/EC (OJ L 244, 29.9.2000, p. 76).

⁽⁶⁾ OJ L 221, 7.8.1986, p. 37. Directive as last amended by Commission Directive 2001/57/EC (OJ L 208, 1.8.2001, p. 36).

⁽⁷⁾ OJ L 221, 7.8.1986, p. 43. Directive as last amended by Commission Directive 2001/57/EC.

⁽⁸⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Directive 2001/57/EC.

⁽⁹⁾ OJ L 213, 21.7.1982, p. 8. Directive as last amended by Directive 1999/20/EC (OJ L 80, 25.3.1999, p. 20).

⁽¹⁰⁾ OJ L 237, 22.9.1993, p. 23. Directive as last amended by Directive 1999/29/EC (OJ L 115, 4.5.1999, p. 32).

- (f) 'complementary feedingstuffs' shall mean mixtures of feedingstuffs which have a high content of certain substances and which, by reason of their composition, are sufficient for a daily ration only if used in combination with other feedingstuffs;
- (g) 'complete feedingstuffs' shall mean mixtures of feedingstuffs which, by reason of their composition, are sufficient for a daily ration;
- (h) 'products intended for animal feed' shall mean feed materials, premixtures, additives, feedingstuffs and all other products intended for use or used in animal feed;
- (i) 'daily ration' shall mean the average total quantity of feedingstuffs, calculated on a moisture content of 12 %, required daily by an animal of a given species, age class and yield, to satisfy all its needs;
- (j) 'animals' shall mean animals belonging to species normally fed and kept or consumed by man as well as animals living freely in the wild in cases where they are fed with feedingstuffs;
- (k) 'putting into circulation' or 'circulation' shall mean the holding of products intended for animal feed for the purposes of sale, including offering for sale, or any other form of transfer, whether free or not, to third parties, and the sale or other forms of transfer themselves;
- (l) 'undesirable substance' shall mean any substance or product, with the exception of pathogenic agents, which is present in and/or on the product intended for animal feed and which presents a potential danger to animal or human health or to the environment or could adversely affect livestock production.

Article 3

1. Products intended for animal feed may enter for use in the Community from third countries, be put into circulation and/or used in the Community only if they are sound, genuine and of merchantable quality and therefore when correctly used do not represent any danger to human health, animal health or to the environment or could adversely affect livestock production.

2. In particular, products intended for animal feed shall be deemed not to be in conformity with paragraph 1 if the level of undesirable substances they contain does not comply with the maximum levels laid down in Annex I.

Article 4

1. Member States shall prescribe that the undesirable substances listed in Annex I may be tolerated in products intended for animal feed only subject to the conditions laid down therein.

2. In order to reduce or eliminate sources of undesirable substances of products intended for animal feed, Member States, in cooperation with economic operators, shall carry out investigations to identify the sources of undesirable substances, in cases where the maximum levels are exceeded and in cases where increased levels of such substances are detected, taking into account background levels. For a uniform approach in cases of increased levels it may be necessary to set action thresholds to trigger such investigations. These may be laid down in Annex II.

Member States shall transmit to the Commission and the other Member States all relevant information and findings of the source and the measures taken to reduce the level or elimination of the undesirable substances. This information shall be transmitted in the frame of the annual report to be transmitted to the Commission according to the provisions of Article 22 of Directive 95/53/EC except in those cases where the information is of immediate relevance for the other Member States. In this latter case, the information shall be transmitted immediately.

Article 5

Member States shall prescribe that products intended for animal feed containing levels of an undesirable substance that exceed the maximum level fixed in Annex I may not be mixed for dilution purposes with the same, or other, products intended for animal feed.

Article 6

In so far as there are no special provisions for complementary feedingstuffs, Member States shall prescribe that complementary feedingstuffs may not, taking into account the proportion prescribed for their use in a daily ration, contain levels of the undesirable substances listed in Annex I that exceed those fixed for complete feedingstuffs.

Article 7

1. Where a Member State has grounds, based on new information or a reassessment of existing information made since the provisions in question were adopted, demonstrating that a maximum level fixed in Annex I or an undesirable substance not listed therein present a danger to animal or human health or to the environment, that Member State may provisionally reduce the existing maximum level, fix a maximum level or prohibit the presence of that undesirable substance in products intended for animal feed. It shall immediately inform the other Member States and the Commission thereof, stating the grounds for its decision.

2. An immediate decision shall be taken, in accordance with the procedure laid down in Article 12, as to whether Annexes I and II should be amended.

So long as neither the Council nor the Commission has taken a decision, the Member State may maintain the measures it has implemented.

The Member State must ensure that the decision taken is made public.

Article 8

1. In accordance with the procedure laid down in Article 11, the Commission, in the light of developments in scientific and technical knowledge, shall adapt Annexes I and II.

2. Furthermore, in accordance with the procedure laid down in Article 11, the Commission:

- shall periodically adopt consolidated versions of Annexes I and II incorporating any adaptations made pursuant to paragraph 1,
- may define acceptability criteria for detoxification processes as a complement to the criteria provided for products intended for animal feed which have undergone such processes.

3. Member States shall ensure that measures are taken to guarantee the correct application of any acceptable processes pursuant to paragraph 2 and the conformity of the detoxified products intended for animal feed with the provisions of Annex I.

Article 9

Member States shall ensure that products intended for animal feed which comply with this Directive are not subject to any other restrictions on circulation as regards the presence of undesirable substances other than those provided for in this Directive and Directive 95/53/EC.

Article 10

Provisions that may have an effect upon public or animal health or on the environment shall be adopted after consultation with the appropriate Scientific Committee(s).

Article 11

1. The Commission shall be assisted by the Standing Committee for Feedingstuffs, set up by Article 1 of Decision 70/372/EEC.

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 12

1. The Commission shall be assisted by the Standing Committee for Feedingstuffs, set up by Article 1 of Decision 70/372/EEC.

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at 15 days.

Article 13

1. The Member States shall apply at least the provisions of this Directive to products intended for animal feed produced in the Community to be exported to third countries.

2. Paragraph 1 shall not affect the right of Member States to authorise products intended for animal feed produced outside the Community which do not fulfil the requirements of this Directive to be returned to the exporting third country. This return of products intended for animal feed to the exporting third country may take place only after the competent authority of the exporting third country has been fully informed of the reasons why, and circumstances under which, the products concerned intended for animal feed could not be put into circulation in the Community.

Article 14

1. Directive 1999/29/EC is hereby repealed as from ...(*), without prejudice to the obligations of the Member States to comply with the deadlines set out in Part B of Annex III thereto for the transposition of the Directives listed in Part A of that Annex.

2. References to Directive 1999/29/EC shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex III.

(*) Eighteen months following the entry into force of this Directive.

Article 15

Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive before ... (*). They shall forthwith inform the Commission thereof.

The measures adopted shall apply as from ...(**).

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for making such reference shall be adopted by Member States.

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 16

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 17

The Directive is addressed to the Member States,

Done at ...

For the European Parliament

The President

For the Council

The President

(*) Twelve months as from the entry into force of this Directive.

(**) Eighteen months as from the entry into force of this Directive.

ANNEX I

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
1. Arsenic	Feed materials with the exception of: — meal made from grass, from dried lucerne and from dried clover, and dried sugar beet pulp and dried molasses sugar beet pulp — phosphates and feedingstuffs obtained from the processing of fish or other marine animals Complete feedingstuffs with the exception of: — complete feedingstuffs for fish Complementary feedingstuffs with the exception of: — mineral feedingstuffs	2 4 10 2 4 4 12
2. Lead	Feed materials with the exception of: — green fodder — phosphates — yeasts Complete feedingstuffs Complementary feedingstuffs with the exception of: — mineral feedingstuffs	10 40 30 5 5 10 30
3. Fluorine	Feed materials with the exception of: — feedingstuffs of animal origin — phosphates Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats — in milk — other — complete feedingstuffs for pigs — complete feedingstuffs for poultry — complete feedingstuffs for chicks Mineral mixtures for cattle, sheep and goats Other complementary feedingstuffs	150 500 2 000 150 30 50 100 350 250 2 000 ⁽¹⁾ 125 ⁽²⁾
4. Mercury	Feed materials with the exception of: — feedingstuffs produced by the processing of fish or other marine animals Complete feedingstuffs with the exception of: — complete feedingstuffs for dogs and cats Complementary feedingstuffs except: — complementary feedingstuffs for dogs and cats	0,1 0,5 0,1 0,4 0,2

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
5. Nitrites	Fish meal Complete feedingstuffs excluding: — (expressed as sodium nitrite)	60 (expressed as sodium nitrite) 15 feedingstuffs intended for pets except birds and aquarium fish
6. Cadmium	Feed materials of vegetable origin Feed materials of animal origin, except: — feedingstuffs for pets Phosphates Complete feedingstuffs for cattle sheep, and goats except: — complete feedingstuffs for calves, lambs and kids Other complete feedingstuffs except: — feedingstuffs for pets Mineral feedingstuffs Other complementary feedingstuffs for cattle, sheep and goats	1 2 10 ⁽³⁾ 1 0,5 5 ⁽⁴⁾ 0,5
7. Aflatoxin B ₁	Feed materials with the exception of: — groundnut, copra, palm-kernel, cotton seed, babassu, maize and products derived from the processing thereof Complete feedingstuffs for cattle, sheep and goats with the exception of: — dairy cattle — calves and lambs Complete feedingstuffs for pigs and poultry (except young animals) Other complete feedingstuffs Complementary feedingstuffs for cattle, sheep and goats (except complementary feedingstuffs for dairy animals, calves and lambs) Complementary feedingstuffs for pigs and poultry (except young animals) Other complementary feedingstuffs	0,05 0,02 0,05 0,005 0,01 0,02 0,01 0,05 0,03 0,005
8. Hydrocyanic acid	Feed materials with the exception of: — linseed — linseed cakes — manioc products and almond cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for chicks	50 250 350 100 50 10

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
9. Free gossypol	Feed materials with the exception of: — cotton-seed cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats — complete feedingstuffs for poultry (except laying hens) and calves — complete feedingstuffs for rabbits and pigs (except piglets)	20 1 200 20 500 100 60
10. Theobromine	Complete feedingstuffs with the exception of: — complete feedingstuffs for adult cattle	300 700
11. Volatile mustard oil	Feed materials with the exception of: — rapeseed cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats (except young animals) — complete feedingstuffs for pigs (except piglets) and poultry	100 4 000 (expressed as allyl isothiocyanate) 150 (expressed as allyl isothiocyanate) 1 000 (expressed as allyl isothiocyanate) 500 (expressed as allyl isothiocyanate)
12. Vinyl thiooxazolidone (vinyl-oxazolidine thione)	Complete feedingstuffs for poultry with the exception of — complete feedingstuffs for laying hens	1 000 500
13. Rye ergot (<i>Claviceps purpurea</i>)	All feedingstuffs containing unground cereals	1 000
14. Weed seeds and unground and uncrushed fruits containing alkaloids, glucosides or other toxic substances separately or in combination including	All feedingstuffs	3 000
(a) <i>Lolium temulentum</i> L.;		1 000
(b) <i>Lolium remotum</i> Schrank;		1 000
(c) <i>Datura stramonium</i> L.		1 000
15. Castor oil plant — <i>Ricinus communis</i> L.	All feedingstuffs	10 (expressed in terms of castor-oil plant husks)
16. <i>Crotalaria</i> spp.	All feedingstuffs	100
17. Aldrin } 18. Dieldrin }	singly or combined expressed as dieldrin } All feedingstuffs with the exception of: — fats }	0,01 0,2

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
19. Camphechlor (toxaphene)	All feedingstuffs	0,1
20. Chlordane (sum of cis- and trans-isomers and of oxychlordane, expressed as chlordane)	All feedingstuffs with the exception of: — fats	0,02 0,05
21. DDT (sum of DDT-, TDE- and DDE-isomers, expressed as DDT)	All feedingstuffs with the exception of: — fats	0,05 0,5
22. Endosulfan (sum of alpha- and beta-isomers and of endosulfansulphate expressed as endosulfan)	All feedingstuffs with the exception of: — maize — oilseeds — complete feedingstuffs for fish	0,1 0,2 0,5 0,005
23. Endrin (sum of endrin and of delta-ketoi-endrin, expressed as endrin)	All feedingstuffs with the exception of: — fats	0,01 0,05
24. Heptachlor (sum of heptachlor and of heptachlorepoxyde, expressed as heptachlor)	All feedingstuffs with the exception of: — fats	0,01 0,2
25. Hexachlorobenzene (HCB)	All feedingstuffs with the exception of: — fats	0,01 0,2
26. Hexachlorocyclo-hexane (HCH)		
26.1. alpha-isomers	All feedingstuffs with the exception of: — fats	0,02 0,2
26.2. beta-isomers	Compound feedingstuffs with the exception of: — feedingstuffs for dairy cattle Feed materials with the exception of: — fats	0,01 0,005 0,01 0,1
26.3. gamma-isomers	All feedingstuffs with the exception of: — fats	0,2 2,0
27. Dioxin (sum of PCDD and PCDF), expressed in international toxic equivalent	Citrus pulp	500 pg I-TEQ/kg (upper bound detection limit) ⁽⁵⁾

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
28. Apricots — <i>Prunus armeniaca</i> L.	All feedingstuffs	Seeds and fruit of the plant species listed opposite as well as their processed derivatives may only be present in feedingstuffs in trace amounts not quantitatively determinable
29. Bitter almond — <i>Prunus dulcis</i> (Mill.) D.A. Webb var. <i>amara</i> (DC.) Focke (= <i>Prunus amygdalus</i> Batsch var. <i>amara</i> (DC.) Focke)		
30. Unhusked beech mast — <i>Fagus silvatica</i> L.		
31. Camelina — <i>Camelina sativa</i> (L.) Crantz		
32. Mowrah, <i>Bassia</i> , <i>Madhuca</i> — <i>Madhuca longifolia</i> (L.) Macbr. (= <i>Bassia longifolia</i> L. = <i>Illipe malabrorum</i> Engl.) <i>Madhuca indica</i> Gmelin (= <i>Bassia latifolia</i> Roxb.) = <i>Illipe latifolia</i> (Roscb.) F. Mueller)		
33. Purghera — <i>Jatropha curcas</i> L.		
34. Croton — <i>Croton tiglium</i> L.		
35. Indian mustard — <i>Brassica juncea</i> (L.) Czern. And Coss. ssp. <i>integrifolia</i> (West.) Thell.		
36. Sareptian mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i>		
37. Chinese mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i> var. <i>lutea</i> Batalin		
38. Black mustard — <i>Brassica nigra</i> (L.) Koch		
39. Ethiopian mustard — <i>Brassica carinata</i> A. Braun		

(1) Member States may also prescribe a maximum fluorine content of 1,25 % of the phosphate content.

(2) Fluorine content per 1 % phosphorus.

(3) Member States may also prescribe a maximum cadmium content of 0,5 mg per 1 % phosphorus.

(4) Member States may also prescribe a maximum cadmium content of 0,75 mg per 1 % phosphorus.

(5) Upper bound concentrations are calculated assuming that all values of the different congeners less than the limit of detection are equal to the limit of detection.

ANNEX II

Undesirable substances	Products intended for animal feed	Action threshold in mg/kg (ppm) relative to a product intended for animal feed with a moisture content of 12 %	Comments and additional information (e.g. nature of investigations to be performed)
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(for the record)

ANNEX III

CORRELATION TABLE

Directive 1999/29/EC	This Directive
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	Article 2(b)
Article 2(c)	Article 2(g)
Article 2(d)	Article 2(f)
Article 2(e)	Article 2(e)
Article 2(f)	Article 2(i)
Article 2(g)	Article 2(j)
Article 2(h)	—
—	Article 2(c)
—	Article 2(d)
—	Article 2(h)
—	Article 2(k)
—	Article 2(l)
Article 3	Article 3
Article 4(1)	Article 4(1)
Article 4(2)	—
—	Article 4(2)
Article 5	—
Article 6	—
Article 7	Article 5
Article 8	Article 6
Article 9	Article 7
Article 10	Article 8
Article 11	Article 9
Article 12	—
—	Article 10
Article 13	Article 11
Article 14	Article 12
Article 15	Article 13
Article 16	—

Directive 1999/29/EC	This Directive
—	Article 14
—	Article 15
Article 17	Article 16
Article 18	Article 17
Annex I	Annex I
Annex II	—
Annex II	—
Annex IV	Annex II

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 20 December 1999 the Commission submitted a proposal for a Directive of the European Parliament and of the Council, based on Article 152 of the Treaty, on undesirable substances and products in animal nutrition.

The European Parliament delivered its opinion at first reading on 4 October 2000. The Economic and Social Committee delivered its opinion at its meeting in March 2000. The Committee of the Regions was duly consulted but did not respond.

The Council adopted a Common Position at its meeting on 17 September 2001 in accordance with the procedure laid down in Article 251 of the Treaty.

II. OBJECTIVES

The purpose of the proposal is to strengthen the rules governing animal feed by recasting Directive 1999/29/EC, strengthening the ban on raw materials containing undesirable substances in excess of certain maximum levels.

In the first place, the proposal prohibits the practice of diluting raw materials containing levels of undesirable substances in excess of the permitted maximum limits, which is still a major derogation within those limits. It also puts an end to the present tolerance which allows the maximum limits to be exceeded in special local circumstances in which animal feed is produced and used on the same farm.

In addition, the proposal requires the Member States to open enquiries to determine the source of contamination not only where the maximum limits have been exceeded but also where the undesirable substance content reaches significant levels. Provision is also made for the determination of 'action thresholds' in future in order to facilitate the application of this provision.

III. ANALYSIS OF THE COMMON POSITION

A. GENERAL REMARKS

The Council's Common Position is very much in line with the Commission proposal endorsed by Parliament and takes account, in particular, of the essence of the amendments adopted at first reading by Parliament.

The Council nevertheless considered it necessary to incorporate a number of specific amendments in order to specify the scope of certain provisions and improve the legal clarity of the Directive.

It also incorporated the following horizontal amendments:

- as it considered that the generic term 'undesirable substances' was sufficient to describe the materials covered by the Directive, it deleted 'products' from the title, and replaced 'animal nutrition' by 'animal feed',
- in Annex I there is no longer a distinction between 'substances', 'products' and 'botanical impurities',

- in order to prevent any risk of confusion or ambiguity regarding the different types of products, throughout the text the formulation 'feed materials, feedingstuffs and feed additives' has been replaced by 'products intended for animal feed'.

B. SPECIFIC REMARKS

1. Principal amendments made to the Commission proposal

(a) *Water consumed by animals* (recital 4)

The Council considered it necessary to specify that the rules applicable to animal feed must also cover the quality and safety of water consumed by animals. An additional recital states to that end that the issue of water to be considered as a feedingstuff needs to be examined in the framework of the review of Directive 96/25/EC.

(b) *Scope of the Directive* (Article 1)

In order to ensure that all the relevant legislation would continue to be applicable, the provision intended to ensure the consistency of the Directive with other Community provisions was extensively amended by the incorporation of an exhaustive list of the legislative acts concerned.

(c) *Definitions* (Article 2)

In order to improve the legal clarity of the text, four new definitions were added to Article 2: 'undesirable substance', 'premixtures', 'products intended for animal feed' and 'putting into circulation'; one was deleted: 'pet animals' and the order of the definitions was altered.

(d) *Putting into circulation* (Article 3)

The provision intended to guarantee that animal feed is sound, genuine and of merchantable quality is worded in a more precise fashion, and covers both imports and the use of products within the Community.

The new formulation also provides that, when correctly used, animal feed must not represent any danger to human health, animal health or to the environment and must not negatively affect livestock production.

(e) *Action thresholds* (Article 4 and Annex II)

Under Article 4 of the Common Position, the Member States are required to carry out investigations, in cooperation with operators, when the maximum levels of undesirable substances are exceeded and when increased levels of such substances are detected.

An additional provision was included in order to ensure that all relevant information is transmitted to the Commission and the other Member States.

In addition, the Council introduced a new Annex II listing the action thresholds that will trigger investigations if exceeded or even require the Member State concerned to take measures. The action thresholds will be fixed by means of a committee procedure.

(f) *Dilution* (Article 5)

The wording of the provision prohibiting the dilution of products containing levels of an undesirable substance that exceed the maximum level was reworded to make it more explicit.

(g) *Detoxification processes* (Article 8)

Article 8 was reorganised so as to clarify the responsibilities which the Commission must discharge in following the committee procedure, and to stipulate that the acceptability criteria to be defined by the Commission will apply to decontamination processes rather than to the products undergoing those processes.

A further paragraph was added, stating that measures must be taken to ensure the correct application of detoxification processes and the conformity of the detoxified products.

(h) *Monitoring* (Article 10)

Article 10, which made detailed provision for monitoring, was deleted in the light of the amendments made by the new directive being adopted on the organisation of official inspections in the field of animal nutrition. The text was replaced by a provision laying down the procedure to be followed when measures that may affect health or the environment are taken.

(i) *Refusal of entry* (Article 13)

An additional clause was added in order to make more explicit the provision concerning the return of contaminated products to third countries. It was stipulated that products could be returned only after the competent authority of the exporting country had been informed.

(j) *Implementation* (Articles 14 and 15)

The dates laid down for the implementation of the directive (and for the repeal of Directive 1999/29/EC) were amended in order to allow the Member States sufficient time to take transposition measures and to apply them.

2. The Council's position on the European Parliament's amendments

The Council supported the Commission's position, incorporating in its Common Position amendments 3, 6 and 10, and not incorporating amendments 18, 27, 33, 35, 36 or 37. In addition the Council adopted, in part or in principle, amendments 1, 2, 4, 5, 7, 8, 9, 11, 12, 13, 14, 17, 19, 21, 22, 23, 24, 25, 26, 28 and 32.

As regards the other amendments that it did not adopt, the Council took as its basis the following considerations:

- the deletion of recital 15 from the Commission proposal and of the original Article 10 meant that amendments 15, 29, 30, and 31 were to no purpose,
- it was not considered necessary to insert a definition of 'consignment' in Article 2 as proposed by the Commission as the term did not appear in the Common Position,
- it was considered appropriate to lay down a period of 18 months for the Member States' transposition of the directive because of the magnitude of the measures provided for (amendment 34).