

Brussels, 1 April 2019
(OR. en)

7704/19

FIN 252
AGRI 166
AGRILEG 68
DENLEG 44
PESTICIDE 9
SAN 162
VETER 20
CMPT 6

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council

No. prev. doc.:	6031/19 FIN 99 AGRI 59 DENLEG 19 PESTICIDE 6 SAN 54 VETER 9 WK 4317/2019 REV 1
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Subject:	Draft Council conclusions on the European Court of Auditors' Special Report No 2/2019: "Chemical hazards in our food: EU food safety policy protects us but faces challenges" - Adoption
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1. On 15 January 2019, the European Court of Auditors published Special Report No 2/2019 entitled "*Chemical hazards in our food: EU food safety policy protects us but faces challenges*"¹.
2. Under the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors², the Permanent Representatives Committee on 4 February 2019 instructed the Working Party of Agricultural Attachés (Veterinary/Phytosanitary/Food) (hereinafter "the Working Party") to examine the report in accordance with those rules³.

¹ This special report is available in 23 EU languages on the Court's website:
<http://eca.europa.eu>.

² Doc. 7515/00 + COR 1.

³ Doc. 6031/19.

3. On 21 February 2019, the Working Party, following a presentation by the ECA on its main findings, examined the special report. Subsequently, the Presidency prepared a set of draft Council conclusions⁴, which were circulated to delegations for comments.
 4. Following a meeting on 28 March 2019 and a subsequent informal written procedure⁵, the Working Party reached a tentative agreement on the text set out in the Annex to this Note on 1 April 2019.
 5. Consequently, the Permanent Representatives Committee is invited to confirm the agreement reached at Working Party level and to recommend that the Council adopt, as an "A" item at one of its forthcoming meetings, the draft Council conclusions set out in the Annex to this Note.
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⁴ Doc. WK 3783/2019.

⁵ The texts examined are set out in Docs. WK 4317/2019 + REV 1 + REV 2.

Draft Council conclusions on the European Court of Auditors' Special Report No 2/2019:"

Chemical hazards in our food:

EU food safety policy protects us but faces challenges"

THE COUNCIL OF THE EUROPEAN UNION:

1. WELCOMES the Special Report of the European Court of Auditors ("the Court") No 2/2019: "Chemical hazards in our food: EU food safety policy protects us but faces challenges";
2. RECALLS that Regulation (EC) No 178/2002 ("the General Food Law")⁶ provides the basis for the assurance of a high level of protection of human health and consumers' interest in relation to food, including against chemical hazards.
3. FURTHER RECALLS that the General Food Law lays the primary responsibility for ensuring that food placed on the market is safe on business operators, but also allocates certain responsibilities to Member States, in particular to enforce food legislation and to this aim maintain a system of official controls set out in Regulation (EC) No 882/2004⁷ including controls at the EU external borders. In this system, the Commission ensures that third countries provides the necessary guarantees related to the organisation and management of their sanitary control systems. In addition, the Commission is responsible for developing the legal framework in a way that maintains the protection of citizens.

⁶ OJ L 31, 1.2.2002, p. 1.

⁷ OJ L 165, 30.4.2004, p. 1.

4. DRAWS the attention to the recently agreed revision⁸ of the General Food Law and related sectoral legislation that has the improvement of the governance of the European Food Safety Authority ("EFSA") *inter alia* by strengthening its scientific cooperation with Member States and their involvement in its procedures as one of its aims and that addresses the long-term sustainability of the EU risk assessment in the food chain, and more specifically the scientific capacity of the EFSA.
5. Further RECALLS that the single legislative framework on official controls set out in Regulation (EU) 2017/625⁹ that establishes a harmonised Union framework for the organisation of official controls along the entire agri-food chain will apply, and replace *inter alia* Regulation (EC) No 882/2004, from 14 December 2019.
6. EMPHASISES that according to the WHO estimates on global burden of foodborne diseases¹⁰, Europe is one of the safest places in the world.
7. NOTES with satisfaction the finding that as regards chemical hazards the European model for food safety is soundly based and provides EU citizens with a high level of food safety.
8. ACKNOWLEDGES, however, the finding that there are signs of the system being over-stretched, especially as the Commission and Member States do not have the capacity to fully implement it and that a number of inconsistencies and challenges currently facing the EU food safety model have been identified. In this context, while ACKNOWLEDGING that certain scientific methodologies are not yet available and STRESSING the need for finding methods for overcoming data gaps, DRAWS THE ATTENTION to the need to better take into account combined effects of exposure to different chemicals.

⁸ Commission proposal set out in COM(2018) 179 final. Agreement between the Institutions reached at first reading. Regulation not yet adopted.

⁹ OJ L 95, 7.4.2017, p. 1

¹⁰ World Health Organisation, "WHO estimates of the global burden of foodborne diseases, Foodborne Diseases Burden Epidemiology Reference Group 2007-2015", Figure 12, p. 80.

9. TAKES DUE NOTE of the main findings of the Court presented in the Special Report and of its recommendations that concern, notably, the need for assessing potential changes to the legislation to improve complementarity between private and public control systems, the need for ensuring that food items comply with EU standards, regardless of their country of origin and the need for facilitating consistent application of EU legislation on food safety.
 10. DRAWS THE ATTENTION to the elements of EU food safety legislation for which implementation is pending.
 11. STRONGLY AGREES that EU legislation on residue levels must continue to provide the same level of consumer protection for food independently of origin.
 12. WELCOMES the Commission's reply to the findings of the Court and the initiatives already taken to implement those recommendations and, in particular, the Commission's firm commitment to continue to evaluate the EU food safety legislation and its intention to support Member States in the implementation of Regulation (EU) 2017/625 that provides that official controls, where appropriate, should take account of private quality assurance schemes, and its undertaking to provide guidance facilitating consistent application of EU legislation on food safety.
 13. INVITES the Commission to report to the Council on the progress regarding those issues and on any measures it has taken in relation to chemical hazards in food.
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