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Committee on International Trade

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OPINION

of the Committee on International Trade

for the Committee on the Internal Market and Consumer Protection

on the proposal for a regulation of the European Parliament and of the Council banning the placing on the market and the import of or export from the Community of cat and dog fur and products containing such fur (COM(2006)0684 – C6-0428/2006 – 2006/0236(COD))

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SHORT JUSTIFICATION

Across Europe many people are members of animal welfare organisations, whilst, as Commissioner Kyprianou told the Parliament's animal welfare intergroup in June 2005:

“I have received a massive number of letters on this emotive subject [cat and dog fur], from politicians as well as from citizens, expressing deep indignation and repulsion regarding this trade. These feelings were provoked by horror scenes of how cats and dogs exploited for fur production, are treated in Asia.”

At the European Union level, the importance of improved protection and respect for the welfare of animals as sentient beings has been recognised since the conclusion of the Amsterdam Treaty and the adoption of a protocol calling for animal welfare to be taken fully into account in formulating and implementing the Community's internal market policies (amongst others). Concrete steps, taken at the European level, to enhance animal welfare would help to reduce the gap between Europe's Institutions and its citizens.

As the Commission acknowledges, there is wide-spread and growing public concern amongst European citizens about the possibility that they could unknowingly buy fur or fur products made from cats and dogs. This concern was reflected in the written declaration the Parliament adopted with widespread support on 18 December 2003, the INTA opinion on the protection and welfare of animals 2006-2010 and the resolution adopted by the Plenary on 12 October 2006, all of which called for a ban on trade in cat and dog fur. This proposed Regulation is therefore a welcome step for which the Commission, and in particular Commissioner Kyprianou, should be congratulated.

At the same time, these congratulations must be tempered with regret at the time it has taken for the production of this legislative proposal. The draftsperson of this opinion wrote to then Commissioner Byrne on 12 April 2002 calling for such a ban but was told the Commission was “reflecting” on what was “a complex issue”. We should learn from this experience and ensure that the Commission is ready to act more quickly and decisively in response to similar issues, such as the trade in seal products. For this reason, the present draft opinion proposes two types of amendment. One set seeks to close off certain loopholes in the Commission's proposals, in particular by:

- making clear that the term “fur” should cover the pelt, skin and hair of the animal;
- ensuring that the regulation covers not only the domestic cat but also animals produced as the result of interbreeding between domestic and wild cats;
- removing the possibility of allowing, by comitology, derogations which would allow the marketing and import of fur from cats and dogs that had been bred for some other purpose.

Other amendments in this set seek to strengthen the system of information exchange between Member States and the Commission so as to assist the spread of best practice. The introduction of regular reports to Parliament and the Council is proposed so as to assist effective evaluation of the legislation's effects, in line with the objectives of “Better Regulation”.

A second set of amendments is designed to recognise that European citizens are equally concerned about the possibility of discovering that products made from seals are being marketed in the European Union. 500 000 Italians signed a petition calling for a national ban on seal fur in 2005. A total import ban on seal products was called for both by the resolution on the protection and welfare of animals 2006-2010 and by the written declaration on banning seal products in the European Union adopted on 26 September 2006. Indeed Parliamentary resolutions on the trade in seal products date back at least to 11 March 1982.

In 2005 Italy introduced a temporary ban on products derived from seals whilst in January 2007 the Belgian Parliament adopted a permanent ban. The Netherlands is likely to legislate against these products in the near future whilst other countries are considering legislation of this sort. Other Member States have licensing systems that effectively limit imports. Such legislation is WTO compatible because it is covered by the exceptions provided for under GATT Article XX and is non discriminatory between domestic and foreign goods. Outside the EU, Australia, Mexico, New Zealand and the United States prohibit trade in products derived from marine mammals. None of these bans has been challenged using the dispute settlement procedure.

In view of this existing and pending legislation it is clear that European citizens and their elected representatives regard the trade in seal products as no more acceptable than that in cat and dog furs. Equally, traders are faced with different legal requirements in the different Member States where they wish to do business. As this situation is precisely the basis the Commission has chosen to adopt for its proposed ban on the marketing of cat and dog fur, it is unclear why it has not also proposed a ban on the marketing of seal products. The suggested amendments are intended to provide the Commission with the necessary information on the legislative situation in the Member States so that it can review the need to act against seal products. We must hope that this will not require such a long, drawn out process as the welcome, but overdue, proposal to ban trade in cat and dog fur.

AMENDMENTS

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text Proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 2 a (new)

(2a) Member States are also increasingly adopting legislation designed to prohibit the production and marketing of products

made from seals.

Justification

Italy introduced a temporary ban on products derived from seals in 2005 and the Belgian Parliament approved a permanent ban in January 2007. The Netherlands is expected to legislate on this topic in the coming months while other Member States are operating or considering licensing systems. As a result, the legislative divergence the Commission has identified with regard to cat and dog fur also exists for sealskins and products derived from seals.

Amendment 2

Recital 2 b (new)

(2b) It is likely that further national bans on the production and marketing of seal skins and other products made from seals will be introduced in the near future despite the fact that Member States recognise that legislation at the European level would be more effective. The Commission should therefore “immediately draft a regulation to ban the import, export and sale of all harp and hooded seal products”¹ using Article 95 of the EC Treaty as a legal base.

¹*Text Adopted of 26.9.2006, P6_TA(2006)0369.*

Justification

In February 2007, the British Minister for Trade called on the European Commission to propose an EU-wide ban on the import of seal products while the German Federal Minister for Food, Agriculture and Consumer Protection announced that, in view of the Commission's failure to respond to the many calls for action, national animal protection legislation would be amended so as to prohibit products made from seals.

Amendment 3

Recital 6

(6) Moreover, ***ordinary consumers of fur products*** are discouraged from buying in other Member States, ***due to the uncertainty regarding the applicable legal framework there.***

(6) Moreover, ***European consumers*** are discouraged from buying in other Member States ***and may not fully grasp the differentiations in the applicable legal situation of each Member State.***

Justification

The Regulation should focus on the proposed ban in the cat and dog fur trade.

Amendment 4
Recital 6 a (new)

(6a) Consumer confidence requires not only that the marketing of cat and dog fur be banned but that citizens be assured that customs officials are able to identify such fur without excessive difficulty. For this reason, it is appropriate for the ban to cover species whose fur could be confused with that coming from domestic cats or dogs, such as wild cats or raccoon dogs.

Justification

Experience in the United States and elsewhere shows that, to be effective, a ban on cat and dog fur should cover not only the domestic species (felis catus and canis familiaris) but other related species whose furs cannot readily be distinguished from these species.

Amendment 5
Recital 7

(7) The measures provided for in this Regulation should ***therefore facilitate the placing on the market of fur and fur products from species other than cats and dogs and prevent disturbance on the internal market for fur and fur products in general.***

(7) The measures provided for in this Regulation should ***protect consumers from unknowingly purchasing products made with cat and dog fur. The measure will raise consumer confidence in the effective functioning of the internal market.***

Justification

The Regulation should focus on the ban in the cat and dog fur trade, a ban which is needed in part to restore consumer confidence in the effective functioning of the internal market.

Amendment 6
Recital 8

(8) To eliminate the present fragmentation of the internal market ***for fur and fur products*** there is a need for harmonisation where the most effective and proportionate instrument to counter the barriers to trade resulting from

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diverging national requirements would be a ban on the placing on the market in the Community and import and export of cat and dog fur and products containing such fur.

national requirements would be a ban on the placing on the market in the Community and import and export of cat and dog fur and products containing such fur.

Justification

The Regulation should focus on the proposed ban in the cat and dog fur trade.

Amendment 7
Recital 8 a (new)

(8a) There is a similar possibility of national legislation affecting the internal market for products from other species, most notably seals. The Commission should therefore collect information on national legislation and report regularly to the Parliament and Council so that such developments can be identified at an early stage and appropriate action taken.

Justification

See earlier justification for proposed amendment creating Recital 2a (new).

Amendment 8
Recital 9 a (new)

(9a) A ban on the placing on the market of cat and dog fur and products containing such fur, regardless of their source, would avoid discrimination between EU and third country manufacturers and amongst third country manufacturers of such products. The ban would thus be in line with the EU's international obligations.

Justification

WTO compliance should be assured in this Regulation where third countries are not discriminated against when importing products into the European market.

Amendment 9
Recital 10 a (new)

(10a) Similar ethical concerns are being expressed by citizens with regard to the import of sealskins and products derived from seals, especially since there are clear indications that those animals are being slaughtered inhumanely.

Justification

As the European Parliament declaration on banning seal products in the European Union (adopted on 26 September 2006) pointed out, a team of international veterinarians concluded that 42% of the slaughtered seals they examined may have been skinned whilst still conscious. In October 2006 the President of the German veterinary association said “Veterinarians, as the best protectors of animals, are outraged by the gruesome methods with which seals are often killed”.

Amendment 10

Recital 12

(12) However, it is appropriate to provide for the possibility to derogate from the general ban on the placing on the market, import to or export from the Community of fur of cats and dogs and products containing such fur if it can be ensured that it originates from cats and dogs that have not been bred or killed for fur production and if it is labelled as such and will therefore not have any negative effect on the consumer’s confidence in fur and fur products. Furthermore, it is appropriate to provide for the possibility to derogate from the ban if the fur is only introduced to or exported from the Community for personal use and can therefore be considered as not impeding the smooth operation of the internal market. ***deleted***

Justification

Effective enforcement of the Regulation mean that derogations such as those proposed by the Commission - which would allow the import of fur from cats and dogs that were killed for their meat or for personal use - should not be considered. Such derogations would provide a loophole which would undermine the entire Regulation. This is a crucial point in the application and effective enforcement of the future Regulation.

Amendment 11
Article 2, indent 1

‘cat’ shall mean an animal of the species
felis catus;

– ‘cat’ shall mean an animal of the species
felis catus **or any species or sub-species of
the sub-genus felis silvestris;**

Justification

Although the domestic cat (Felis silvestris catus or Felis catus depending on the classification system being used) is the most common species and most likely to be the subject of trade, cats from look-alike species are widespread in regions of Europe and the rest of the world. Effective legislation requires that care be taken to avoid creating loopholes or making enforcement difficult, keeping in mind that there is a risk of confusion between products coming from closely related species, particularly in view of the possibility of interbreeding between domestic and wild cats.

Amendment 12
Article 2, indent 2

- ‘dog’ shall mean an animal of the species
canis familiaris.

- ‘dog’ shall mean an animal of the species
canis familiaris **or the species Nyctereutes
procyonoides (commonly known as raccoon
dog);**

Justification

Experience of the US legislation, which has banned the import of cat and dog fur since the year 2000, shows that, to allow prohibited furs to be readily identified by customs, it is necessary to cover other species of the dog family and, in particular, raccoon dogs. According to the Humane Society of the United States, many fur or fur-trimmed jackets sold in the United States as having "faux fur" -- or not labelled at all -- are actually made, at least in part, from dog fur. In many cases, tests have shown the fur came from raccoon dogs.

Amendment 13
Article 2, indent 2 a (new)

**- ‘fur’ shall also include the pelt, skin or
any other part of the animals referred to in
this article from which fur could be
obtained;**

Justification

This amendment seeks to close potential loopholes .

Amendment 14
Article 2, indent 2 b (new)

- 'placing on the market' shall mean the holding of fur from species referred to in Article 1 or a product containing such fur for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution and other forms of transfer themselves;

Justification

This amendment adopts a standard definition that is in line with the customs code and other legislation such as 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.

Amendment 15
Article 2, indent 2 c (new)

- 'personal or household effects' shall mean dead animals of the species *felis catus* and *canis familiaris*, including those preserved through taxidermy, or parts and derivatives thereof, that belong to a private individual and that form or are intended to form, part of his normal goods and chattels;

Justification

This amendment seeks to clarify and limit the potential exception that could be introduced through comitology (the new regulatory procedure with scrutiny).

Amendment 16
Article 3 a (new)

Article 3a

Reporting

The Commission shall report to the Parliament and the Council by [30 March 2012] and every second year thereafter on

the operation of this Regulation.

Justification

Such regular reports will enable the European Parliament and Council to review the effectiveness of the Regulation and provide an incentive for effective enforcement.

Amendment 17
Article 3 b (new), title

Article 3b
Content of biennial reports

Justification

This series of amendments sets out the information that should be included in the reports proposed in the previous amendment (Article 3a). This will ensure that the Parliament and Council receive sufficient information to be able to evaluate the effectiveness of the legislation.

Amendment 18
Article 3 b (new), introductory part

The biennial reports referred to in Article 3a shall include the following:

Justification

See justification to amendment 17.

Amendment 19
Article 3 b (new), indent 1

- a summary of the information received from Member States pursuant to Article 3;

Justification

Regular reports, summarising the analytical methods being used to identify the species of origin of fur, will assist in spreading best practice and will allow the legislature to monitor the practical effectiveness of this Regulation.

Amendment 20
Article 3 b (new), indent 2

- ***a comparative analysis of enforcement practices in the Member States, together with recommendations on best practice;***

Justification

As the Commission proposal says (recital 13) “measures to ban the use of cats and dogs for fur production should be enforced uniformly across the Community”. It is therefore important that the Commission collect information not only on testing methods but on enforcement more generally. This will allow best practices to be spread from one Member State to another.

Amendment 21
Article 3 b (new), indent 3

- ***a summary of each Member State's rules on penalties notified under Article 6.***

Justification

Information on the penalties adopted by different Member States will also contribute to spreading best practice without in any way constraining differences that may be appropriate in view of Member States' different legal systems and traditions.

Amendment 22
Article 4, paragraph 2, introductory part and indent 1

- 2. provisions which derogate from the prohibitions provided for in Article 1 for such fur or products containing such fur*** ***deleted***
- ***which is labelled as originating from cats or dogs that have not been bred or killed for fur production or***

Justification

Allowing such derogations to be introduced by comitology would mean that the Regulation would fail to address the ethical concerns mentioned in the tenth recital of the Commission's proposal. It is hard to imagine how customs officers (or anyone else) could distinguish between furs from animals that had been bred for fur production and those bred for some other purpose. In addition, in the absence of any EU mandatory labelling requirement, a derogation based on labelling would undermine the effectiveness of the Regulation and facilitate fraud.

Amendment 23
Article 4, paragraph 2, indent 2

- which are personal or household effects being introduced into the Community, or exported therefrom. *deleted*

Justification

Effective enforcement of the Regulation means that derogations such as that proposed by the Commission - which would allow the import of fur from cats and dogs that were killed for their meat - should not be considered. Such derogation would provide a loophole which would undermine the entire Regulation. This is a crucial point in the application and effective enforcement of the future Regulation.

Amendment 24
Article 4, paragraph 2 a (new)

2a. provisions which extend the prohibitions set out in Article 1 to additional and related species and which add to the definitions contained in Article 2.

Justification

Although the domestic cat, as defined in Article 2 (“Felis catus” or “Felis silvestris catus” depending on classification system), is the most common species and most likely to be the subject of trade, effective legislation requires that care be taken to avoid creating loopholes or making enforcement difficult, keeping in mind that there is a risk of confusion between products coming from closely related species, particularly in view of the possibility of interbreeding between domestic and wild cats.

Amendment 25
Article 6 a (new)

Article 6a

Species other than cats and dogs

6a. The Member States shall notify the Commission by [30 March 2009] of any legislative restrictions that have been

adopted or are under examination by a national parliament and which aim at restricting or banning the production or marketing of skins or furs from species other than cats and dogs and shall notify it without delay of any subsequent change in the legislation or any new proposal.

Justification

Following this proposal's rationale, the Commission also needs information about possible obstacles to trade in furs or skins of species other than cats and dogs because Member States have taken or are about to take divergent measures (Court judgement of 14 December 2004 in case C-434/02). Although there are existing reporting obligations under Directive 98/34 and Regulation (EC) 3285/94, this amendment puts beyond doubt the need for the Commission to receive information about relevant national legislation so as to be able to propose harmonisation measures as appropriate.

Amendment 26
Article 6 b (new)

Article 6b

Reporting

6b. The Commission shall report to the Parliament and the Council by [30 March 2010] and every year thereafter on the extent to which Member States have taken or intend to take divergent measures as concerns any species other than cats and dogs.

(Linked to proposed Article 6a)

Justification

These annual reports will allow adequate monitoring of the extent to which obstacles may arise that could affect the functioning of the Internal Market.

PROCEDURE

Title	Cat and dog fur
References	COM(2006)0684 - C6-0428/2006 - 2006/0236(COD)
Committee responsible	IMCO
Opinion by Date announced in plenary	INTA 29.11.2006
Drafts(wo)man Date appointed	Caroline Lucas 18.12.2006
Discussed in committee	23.1.2007 27.2.2007
Date adopted	21.3.2007
Result of final vote	+: 22 -: 5 0: 0
Members present for the final vote	Kader Arif, Graham Booth, Carlos Carnero González, Christofer Fjellner, Béla Glattfelder, Ignasi Guardans Cambó, Eduard Raul Hellvig, Ģirts Valdis Kristovskis, Caroline Lucas, Marusya Ivanova Lyubcheva, Erika Mann, David Martin, Georgios Papastamkos, Godelieve Quisthoudt-Rowohl, Tokia Saïfi, Peter Šťastný, Daniel Varela Suanzes-Carpegna, Zbigniew Zaleski
Substitute(s) present for the final vote	Jean-Pierre Audy, Danutė Budreikaitė, Elisa Ferreira, Małgorzata Handzlik, Jens Holm, Eugenijus Maldeikis, Zuzana Roithová
Substitute(s) under Rule 178(2) present for the final vote	Corien Wortmann-Kool, Sepp Kussstatscher