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NAPLES FOR PS/PRIME MINISTER AND PS/FOREIGN SECRETARY

SUBJECT: BSE: BUNDESRAT DECISION

SUMMARY

1. Bundesrat agrees draft German Order banning British beef. Order will be notified to Brussels in line with normal EU procedures. Timing of implementation still unclear.

DETAIL

2. At lunchtime on 8 July the Bundesrat approved the draft German Order banning British beef from animals older than 3 years and from herds which have had a case of BSE in the last 4 years. It also agreed the draft motion referred to it by the Health Committee of the Bundesrat (sent by fax to Eddy, MAFF on 1 July). This motion links the agreement to the Order with the expectation that the Order will be promulgated without delay.

3. We spoke to Doerfler (DUS-equivalent, Federal Health Ministry). He said that the motion was not binding on the Government (although it was clearly politically significant). The plan was that the Order would be notified to Brussels today or early next week in line with EU notification procedures. The timing of implementation was still undecided. In theory, Community notification procedures required a standstill of at least 3 months. In practice much would depend on the outcome of discussions in the Scientific and Standing Veterinary Committees Brussels next week, and on the bilateral discussions which Seehofer and Borchert hoped to have with UK Health and Agriculture Ministers in the margins of the Agriculture Council on 18/19 July.

COMMENT

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The Bundesrat motion on early promulgation could put some political pressure on the Government, but this will be reduced by the summer break. Its existence can also be used by Seehofer at his convenience to threaten promulgation, pleading political pressure. Doerfler's comments suggest the Germans are continuing to see the threat of a unilateral (implemented) ban as useful pressure to extract more at the European level.

5. It will be important in the new phase that we reinforce, and do not undermine, those such as Kinkel and Rexrodt who argue that Community notification procedures must be followed, implying at least a six month stay of implementation (taking us past the Bavarian and Federal elections in September and October).

6. FCO please advance to PS/No 10; PS/Secretary of State; /Minister of Agriculture; PS/Secretary of State for Health; erm Sec, MAFF; Capstick, MAFF; Heppell, DH; Haddon, MAFF; Meldrum, MAFF; Rossington, MAFF; Lister, DH; Wright (AUSS), FCO; Fitchew, Cabinet Office; Eddy, MAFF; Leech, Cabinet Office.

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