Food additives

2006/0145(COD) - 24/10/2007 - Modified legislative proposal

The Commission has amended its initial proposal taking account of Parliamentary amendments tabled at first reading. With regard to the original proposal, the European Parliament adopted 59 amendments of which many the Commission has accepted many in whole, or in part, subject to some rewording. 20 amendments, however, were not accepted.

A number of the proposed amendments seek to improve the proposal from a technical and editorial point of view. These have largely been taken over by the Commission.

Scope: The Commission has decided not to include “plant protection products for post harvest treatments” within the scope of the Regulation given that this is already subject to separate Community legislation. However, should a substance or substances used for post harvest treatment not fall under the plant protection product definition it could be considered a food additive – if it has a “preservative” effect. Further the Commission has decided not to accept that microbial cultures should be excluded from the Regulation, as Parliament had proposed. Some cultures are added to foods near the end of their manufacture for an intended preservation effect and should, therefore, be considered food additives. Based on this reasoning they should not be excluded from food additives legislation.

Comitology: The Commission endorses Parliamentary proposals that the Regulation’s implementary powers should be based on the « regulatory procedure with scrutiny » as set out in Decision 2006/512/EC. There is one exception to this rule however. In one of its amendments, Parliament proposes that the « regulatory procedure with scrutiny » should be used for deciding whether or not a given substance falls within the scope of the Regulation. The application of this provision is an implementation of the rules contained in the basic act (« food additive » definition) and should therefore not fall within the new regulatory procedure with scrutiny. Consequently, the Commission’s amended initial proposal specifies that under such conditions the normal “regulatory procedure” will continue to apply.

Prohibition of non-compliant food additives: The Commission endorses Parliamentary proposals to clarify that a food additive or a food that does not comply with the proposed Regulation should not be placed on the market.

Criteria for authorisation: The Commission has decided to amend its initial proposal in order to clarify what is meant by misleading the consumer (as suggested by Parliament). Suggestions that the precautionary principle should apply have, however, been rejected on the grounds that this principle is covered by the “General Food Law” Regulation. A Parliamentary amendment to link “technological need” for a food additive with “consumer benefit” has been similarly rejected on the grounds that a food additive can be beneficial for manufacturers. For example, when a food additive reduces wastage in a production process.

Environmental aspects: On the matter of linking “environmental impact” as a general condition for authorising food additives the Commission has decided not to accept the amendment but it has agreed to reinforce the environmental aspects of the text.

Allergenicity of food: Allergies and food additives are already regulated by labelling provisions set out in Directive 2000/13/EC and as such the Commission will not accept an outright restriction on the use of food additives which may be allergenic. The allergenicity of a food additive can, of course, be considered a legitimate factor during the authorisation process. This process is, therefore, emphasised in recital 7 of the proposed Regulation.

Sweeteners: The Commission has decided not to accept Parliamentary amendments concerning sweeteners. The current criteria for the use of sweeteners restrict their use to foods which are energy reduced or which contain no added sugar. This ensures that consumer benefit from the use of such sweeteners.

Colours: Parliamentary amendments on colourings have been rejected by the Commission on the grounds that they do not mislead the consumer and that labelling provisions are stringent enough.

Community lists of food additives: The Commission has decided not to accept amendments that would include, in the Community list, a reference to other food additives which may not be used in combination with the food additive.

GM food and feed: The Commission has agreed to adopt amendments, which seek to clarify that two procedures for approving GMO food additives can run simultaneously in accordance with good administrative practices.

Azo dyes: The Commission reiterates that allergens are addressed horizontally under Directive 2000/13 /EC and that, as a result, the issue of allergen labelling should be addressed under that legislation.

Nanoscale food additives: Amendments on introducing separate limit values for nanoscale food additives have not been accepted by the Commission since specific restrictions could already be allocated under the conditions of use if these are deemed necessary. Given the importance of this issue, however, the revised text reiterates and clarifies that nanoscale additives will need to be evaluated by the EFSA before they can be approved. Further, the amended Commission proposal includes a new Article 11 introducing requirements for food additives already included on the Community list which are prepared by production methods or staring materials significantly different from those included in the risk assessment of the Authority.

Reviews and evaluations: Regarding Parliamentary proposals to link the timing of reviewing all existing food additive authorisations with that of an EFSA re-evaluation of the safety of all current permitted food additives, the Commission has opted not to accept this proposal. The timing of both reviews will be different hence the Commission considers it unnecessary to bind the two reviews together. On the matter of moving from Annex II to Annex III “food additives in flavourings” the Commission has accepted this amendment and the proposal has been amended accordingly.

Rolling re-evaluation programme: Parliament had proposed that a requirement should be introduced for a rolling re-evaluation programme. The Commission, however, has rejected this amendment on the grounds that food additives are subject to continuous observation once they have been authorised and are re-evaluated whenever new scientific data becomes available. A regular review is, as a result, not necessary and seen as an added administrative burden for both the EFSA and the Commission.

Transitional provisions: The Commission has accepted a Parliamentary amendment whereby food additives, which are legally labelled, will be allowed to remain on the market until their date of minimum durability.