Food additives

2006/0145(COD) - 11/03/2008 - Commission communication on Council's position

The Commission supports the common position adopted by the Council given that it is line with the main aims of the Commission's initial proposal as well as taking account of several amendments proposed by Parliament at first reading.

Parliamentary amendments at first reading accepted by the Commission and Council:

Most of the 39 amendments proposed by Parliament have been incorporated into the Council's common position either in part, in full or in principle.

For example, the common position includes amendments concerning environmental protection. Thus, in cases where there is clear evidence that the production of a certain food additive may have an environmental impact, this should be taken into account when granting authorisation for the food additive in question. The Council proposes that the definition of *quantum satis* should be included in Article 3 and as a result has made considerable changes to Article 11. Such changes reflect, by and large, Parliamentary proposal and the Commission can accept them.

A new Article in the common position (Article 5) clarifies that no person will place a food additive or a food in which a food additive is used on the market, if its use does not comply with the Regulation. This too was a clarification requested by Parliament.

Regarding the interplay between the proposed Regulation and EU GMO provisions, the EP clarified that the evaluation and authorisation procedures under these two Regulations should run simultaneously. This important principle has been adopted by the Council in its common position.

Some of the recitals have been modified by the common position in order to introduce the regulatory procedure with scrutiny and to align the proposed Regulation with Council Decision 2006/512/EC laying down procedures for the exercise of implementing powers conferred on the Commission. These changes are in line with some of the EP's amendments. The common position, unlike Parliamentary amendments, does however include the curtailment of time periods in some cases. This aspect was not reflected in the Commission's amended proposal.

Further, the common position includes a provision in Article 28 clarifying the transfer of current authorisation for food additives into the new annexes. This too reflects suggestions put forward by Parliament at first reading.

New provisions introduced in the common position and accepted by the Commission:

In summary these include:

- obliging manufacturers to make information available on sweeteners used in table top sweeteners. This would provide useful information to the consumer and to the Member States;
- the common position has removed a requirement that food additives should, at all times, comply with the specific purity criteria (specification) which have been set. The common position now states simply that food additives must comply with the "specification";
- a new recital has been introduced in order to describe in greater detail the principle of "carry over";
- on the matter of labelling, the common position reflects, by and large, similar provisions to those proposed by Parliament with regard to the date of minimum durability/shelf life and derogations for

food additives delivered by bulk transport such as a tanker. In addition the Council has gone further in simplifying labelling provisions for food additives sold directly to the final consumer;

- the Council has made some adjustments to recital 13 and Article 24 in order to clarify that a new nanoscale form of a food additive would be a significantly different production method and, as a result, would require a new safety assessment;
- the Council has proposed an amendment that allows the current Directive to be amended by comitology during the interim period so that those food additives in the pipeline, which have already received a positive opinion from the European Food Safety Authority, may be authorised. As a result the common position includes a new Article 29 and changes have been made to Article 33;
- the common position includes a modification that clarifies the meaning of "extending shelf life through the replacement of sugars". The Commission has decided to accept the new wording set out in the common position;
- in order to improve enforcement, the Council has decided to establish marketed food levels rather than to have a general rule that the levels of food additives should apply to ready to eat food. For foods that have been reconstituted or diluted, levels should be established accordingly;
- the common position includes a new provision that reflects the need, created by changes to the labelling provisions, that a transitional period is provided for products which no longer comply with the new rules.

To conclude, the Commission is of the view that the common position fully reflects the key elements of its initial proposal as well as incorporating many of the key amendments proposed by Parliament at first reading. The Commission therefore agrees with the common position as adopted by unanimity.