

# Food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control

2011/0156(COD) - 23/04/2013 - Commission communication on Council's position

The Commission **supports the position of the Council at first reading** adopted on 22 April 2013 with a view to the adoption of a Regulation of the European Parliament and of the Council on food intended for infants and young children, food for special medical purposes and total diet replacement for weight control.

Taking into account the developments in the informal discussions between the Council and the European Parliament following the European Parliament first reading, the Commission did not prepare an amended proposal but expressed its views on the Parliament amendments in the Commission Communication on action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its June part-session (document SP (2012)540) sent to the European Parliament on 12 July 2012. The Commission indicated that it **could accept** in full, in part, in principle or subject to rewriting **53 of the 83 amendments**, as it considered that these amendments could clarify or improve the Commission's proposal.

The Commission considers that the common position adopted by the Council reflects the original goals of the Commission's proposal and takes into account many concerns of the European Parliament.

Although on certain elements, the common position differs from the Commission's original proposal, the Commission considers that it represents a **carefully balanced compromise**.

**The main amendments of the European Parliament accepted by the Commission and incorporated in full or in part in the Council's position include:**

- the inclusion in the scope of the Regulation of total diet replacement products for weight control, including Very Low Calorie Diet products (VLCDs), which also replace the totality of the daily diet but have a lower energy content. An unambiguous description of products for low-calorie diets is given in the recitals;
- the obligation of the Commission to prepare a report on **milk-based drinks and similar products intended for young children** in the two years following the entry into force;
- the introduction of provisions on the use of **pesticides**, including foods for infants and young children;
- the use of pictures in labelling of follow-on formula;
- the adoption by the Commission of technical guidance to facilitate compliance of food business operators, in particular SMEs, with the requirements of the Regulation;
- the introduction of a cross-reference to the relevant provisions of Regulation (EC) No 178/2002, regarding the application of the **precautionary principle**.

**The European Parliament's amendments rejected by the Commission and incorporated in full, in part, in the Council's position include:**

- the inclusion, as an Annex to the Regulation, of the **Union list of authorised substances**;
- the establishment of specific criteria for the evaluation of **nanomaterials** and their inclusion in the Union list of authorised substances, including with regard to the test methods for evaluating their safety;

- the inability to change the **definitions** by means of delegated acts, as they are essential elements of Regulation;
- the possibility for the Commission to **adopt delegated acts for a period of five years** tacitly extended in the absence of opposition.

**Certain amendments accepted by the Parliament and rejected by the Commission have not been included in the first reading Council position.** These amendments sought to:

- clarify that **foods for special medical purposes** could fall under three different categories;
- include foods for people **intolerant to gluten** in the scope of the Regulation;
- include **formula for low birth weight and pre-term infants** in the scope of the regulation as a sub-category of foods for special medical purposes;
- provide a **temporary authorisation procedure** for innovative products;
- ask the Commission to draft a report, accompanied, if necessary, by a legislative proposal to clarify the legal status of indications of "**Lactose free**" and "very low lactose".

**The Commission accepts the new provisions introduced by the Council** as regards:

- the drafting of a report by the Commission on the necessity, if any, of specific rules for **foods intended for sportsmen** with the possibility to accompany this report with a legislative proposal;
- the adoption by the Commission of implementing measures to decide whether a food falls within the scope of the Regulation and under what category;
- the introduction of a **transition period of three years** plus exhaustion of stocks,
- the deletion of rules on emergency measures.

**The Commission states that it will pay particular attention to pesticides** containing active substances, safeners or synergists classified in accordance with Regulation (EC) No 1272/2008 as mutagen category, carcinogen category, toxic for reproduction category, or considered to have endocrine disrupting properties that may cause adverse effects in humans, or which are very toxic, or which cause critical effects such as developmental neurotoxic or immunotoxic effects, with the objective to ultimately avoid their use.