Food additives

2006/0145(COD) - 11/04/2007

In adopting the report drafted by Ms Asa **WESTLUND** (PES, SE), the Committee on the Environment, Public Health and Food Safety amended in first reading the proposal for a Regulation of the European Parliament and of the Council on food additives.

The Commission has proposed that, in future, decisions on the authorisation of food additives should be taken by way of the comitology procedure. While the Committee can see that this might have advantages, this would only be in the event that the considerations which the European Parliament has often raised over the years are clearly reflected in the new Regulation on food additives and the new Regulation on a common authorisation procedure for food additives, food enzymes and food flavourings. These considerations mainly relate to the environment, public health and allergy sufferers.

The main amendments were as follows:

- the legal base: in view of the provisions of the proposal and its recitals, in particular, the Committee considered that that the aims of protecting human health and the establishment and functioning of the internal market are indissolubly linked with each other without one being secondary and indirect in respect of the other. The proposal's aims connected with the protection of human health and the functioning of the internal market appear to be equally balanced. It is considered, therefore, that the legal basis should be both Article 95 and Article 175 of the EC Treaty. This viewpoint also received the unanimous support of the Legal Affairs Committee;

- environmental concerns: in accordance with the Cardiff Process, environmental aspects must be integrated into all EU legislation. This is particularly relevant in this legislation as what a person eats does not stay in the human body but is dispersed into the natural environment and becomes part of the natural cycle. Even if a substance does not entail any health risk to the person consuming the product which contains the substance, there may be negative effects on the environment and public health at subsequent stages, which should be taken into account when deciding to grant authorisation or not. The use of antibiotics in food and its implications for the development of resistance to antibiotics is one example of what may have damaging effects on public health. The committee therefore specifically includes environmental protection in the aims of the regulation.

- scope: MEPs believe that this regulation should refer to the whole food additive package, as this will avoid the need for subsequent corrections. For this reason, they introduced an amendment to ensure that food enzymes, flavourings and certain food ingredients with flavouring properties should be covered in this regulation. In addition, an amendment whereby foodstuffs which contain additives that do not comply with this Regulation shall not be placed on the market was introduced by the Committee. This makes explicit what is already implicit in the proposal but which is not stated clearly within the Commission’s original text. Furthermore, whereas the Commission proposed that substances used for the protection of plants and plant products in conformity with Community rules relating to plant health should be excluded from the regulation’s scope, the Committee considered that post-harvest pesticides like Methylcyclopropene (1-MCP) used for conserving fruit and vegetables (mainly apples) should fall within its scope. Lastly, in adding a paragraph to Article 2, MEPs sought to ensure consistency with the proposal for a Regulation on Food Enzymes and to harmonize regulations in the Authorisation package by excluding microbial cultures producing food additives from the scope of the draft regulation.

- **greater legal certainty**: Members of the Committee also introduced amendments to ensure greater legal clarity regarding definitions such as ‘reduced sugar’ foods, ‘sugars’, ‘table-top sweeteners’ and *quantum*

satis. Furthermore, in the interests of the clearer administration of justice and with a view to avoiding legal uncertainties in advance, an explicit ban is introduced on the use of a food additive and/or food containing such a food additive being placed on the market and/or in circulation if the use of this food additive does not comply with the requirements of this Regulation ..

- **transparency and review**: authorisations for use of additives must be subject to rolling review. In the committee's view, all current authorisations should be reviewed on the basis of the new criteria before they are transferred to the new Community list. Thereafter, the rolling review of authorisations should continue by way of a transparent procedure in accordance with an evaluation programme to be adopted by comitology procedure. The evaluation programme should be based on a priority system whereby additives are ranked according to the urgency of reviewing their use. This priority ranking should be drawn up by means of an evaluation programme so that it is clear to all parties involved. The evaluation programme must not, however, prevent the Commission and/or the EFSA from taking initiatives to review certain authorisations more promptly. To increase the openness and transparency of the authorisation of additives by publicly stating how the authorisation meets the conditions laid down in the proposal, MEPs introduced an amendment to ensure that with the exception of proprietary knowledge and information which it is appropriate to keep confidential, the approval of a food additive refers explicitly and transparently to the consideration given to the criteria laid down in the regulation, and explains the basis for the final decision.

Consumer interests:

- because consumers are sometimes misled by the use of additives despite the fact that one of the criteria for authorisation under previous legislation was that consumers must not be misled, the Committee introduced amendments to ensure, for example, that consumers are not misled into believing that a product contains a certain fruit through the use of a particular colour for the product;
- likewise, Members sought to ensure that the use of flavour enhancers would not be authorised as a means for reducing the amount of (more expensive) spices in a processed food;
- because some additives interact to create a new compound, which has different properties and implications for human health or the environment than its two component substances, the Committee has introduced an amendment to provide for the case that if this produces a harmful or toxic effect, the combination of food additives should be noted in the Annexes of the Community list;
- as little is known about the health risks of nanotechnology, it is not certain that the limit value for traditional use of an additive and the limit value for nanoparticles of an additive should be the same. The Committee introduced an amendment to ensure that when the use of nanotechnology is authorised, separate limit values for that purpose shall be laid down;
- the Committee makes provision for food additives produced from or by genetically modified organisms or micro-organisms to be clearly labelled as such in order to guarantee the freedom of choice of consumers;
- as Azo-Dyes can provoke allergenic reactions, members want a clear warning to be required by the regulation.

- **codecision**: The Committee proposes codecision as the legal procedure for the establishment of the positive lists and the reevaluation of approved food additives.

- comitology: a series of amendments were approved to align the text with the provisions of the new comitology decisions.

Lastly, the Committee's amendments provide that food additives which are on the market on the date of entry into force of this Regulation, but have not been reviewed and received a positive opinion from the

Scientific Committee on Foods or the European Food Safety Authority, shall be subject to a new risk assessment carried out by the Authority. These additives will be allowed to remain on the market until the new risk assessment has been carried out by the Authority.