



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.03.1998
COM(1998) 188 final – COD 169

OPINION OF THE COMMISSION
pursuant to Article 189 b (2) (d) of the EC Treaty,
on the European Parliament's amendments
to the common positions adopted by the Council on:

1. the proposal for a European Parliament and Council Directive on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation; and

2. the proposal for a European Parliament and Council Directive on the establishment of a Community list of foods and food ingredients treated with ionising radiation.

AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 189 a (2) of the EC Treaty

EXPLANATORY MEMORANDUM

1. BACKGROUND

The objectives of these proposals, based on Article 100a, are:

- to lay down the rules to be observed by irradiation units (standards, inspections, records, radiation sources, etc.);
- to define the conditions for authorising foodstuff irradiation (purposes, wholesomeness of food, reasonable need for treatment);
- to establish procedures for authorisation of treatment with ionising radiation and the marketing and import of foods treated (doses and sources of radiation, inspections, labelling, etc.) and
- to establish a Community list of foods authorised for such treatment.

The Commission submitted its proposal to the Council on 9 December 1988.

The ESC gave its opinion on 31 May 1989.

On first reading (10 October 1989) Parliament proposed banning the treatment for ten of the eleven product categories proposed by the Commission and accepted it for dried aromatic herbs, spices and vegetable seasonings only.

Amongst other changes, the amended Commission proposal (COM(89)576 final - SYN 169) limited the number of categories of foodstuff authorised for irradiation treatment to eight. It restricted irradiation to cases where there were clear benefits for controlling pathogenic microorganisms in food (public health) and insects harmful to dried fruit and vegetables.

The common position was adopted on 27 October 1997 and consisted of two texts since, in 1992, the Council had split the Commission proposal into two parts:

- the framework Directive on the general and technical aspects which broadly satisfied Parliament on labelling and decisions to authorise products; and
- the implementing Directive on the list of foods treated.

This list contained only a single category of foodstuff authorised for irradiation treatment - dried aromatic herbs, spices and vegetable seasonings, as proposed by Parliament.

The Commission accepted these texts, even though they only partly met the objectives of its 1988 proposal.

Five of the amendments proposed by Parliament on first reading were included in the Commission's amended proposal and two of them were finally incorporated in the Council's common position, which, in turn, restored six of Parliament's amendments which had been rejected by the Commission.

2. EUROPEAN PARLIAMENT'S POSITION

On second reading (17 February 1998) Parliament's Committee on the Environment, Public Health and Consumer Protection proposed 25 amendments, three of which were to the implementing Directive. Eight more were submitted subsequently but considered inadmissible.

The plenary session adopted just 14 amendments, three of them to the implementing Directive, aiming at:

- clarifying the text and making it more specific (amendments 1, 2, 7, 11 (first part), 12 and 23 (first part));
- involving Parliament, even in the arrangements for consultation of the Scientific Committee for Food (amendments 6 and 18);
- imposing in the legislation purely technical requirements, e.g. specific analytical test procedures for detection of food treated with ionising radiation (amendments 9, 11 (second part) and, in the implementing Directive, 23 (second part), 24 and 25);
- removing the possibility for the Commission to take decisions in the light of safeguard measures adopted by the Member States (amendments 8 and 19);
- halving the grace period for prohibition of irradiated foodstuffs not complying with the Directive (amendment 20).

3. COMMISSION OPINION

(a) The Commission can accept:

- Amendment 1, because it reflects consumers' concerns more closely;
- Amendments 2, 11 (first part), 12 and 23 (first part) which clarify the text and define it more closely;
- Amendment 7 which adds to the recital reasons substantiating Annex I.

For these reasons, as provided for by Article 189a of the EC Treaty, the Commission has decided to amend its proposal to incorporate these amendments.

(b) By contrast, the Commission cannot accept:

- Amendments 6 and 18 imposing an obligation for Parliament to be involved in the arrangements concerning the Commission's obligation to consult the Scientific Committee.

The obligation to consult the Scientific Committee must not be confused with the procedure for adoption of provisions for which Parliament is responsible together with the Council. This amendment is unnecessary, given that the Directive is based on Article 100a of the Treaty.

- Amendments 8 and 19 concerning the Commission's powers in response to safeguard measures.

Amendments to the Directive in response to safeguard measures must be adopted as soon as possible to protect public health and to avoid creating obstacles to operation of the single market. These objectives could not be met if the regulatory committee procedure were replaced by the Article 100a procedure.

- Amendments 9, 24, 25 and the second part of amendments 11 and 23 which impose specific analytical test procedures in the legislation.

The general aspects of inspections are covered by the horizontal Directive on the official control of foodstuffs. This imposes no specific analytical methods because it is inappropriate to bind legislation to technical performance, which is often overtaken by events. Moreover, the follow-up Directive on additional measures concerning the official control of foodstuffs places an obligation on accredited laboratories to comply with standard EN 45001, which entails use of validated methods.

- Amendment 20, which halves the grace period for prohibition of irradiated foodstuffs not complying with the Directive to 12 months.

Since 18 months are allowed for incorporation of the Directive into national legislation, it is completely appropriate to allow at least a further six months before prohibiting products not complying.

AMENDED PROPOSAL

for a European Parliament and Council Directive
on the approximation of the laws of the Member States concerning
foods and food ingredients treated with ionising radiation

Common position	Amended proposal
“(4) Whereas in several Member States ... consumers can be <u>very concerned</u> about the consequences of the use of food irradiation;”	“(4) Whereas in several Member States ... consumers <u>may have cause for concern</u> about the consequences of the use of food irradiation;”
“(5) Whereas, until the entry into force of the <u>final</u> positive list of foodstuffs ...”	“(5) Whereas, until the entry into force of the <u>Community</u> positive list of foodstuffs ...”
“(13) Whereas foodstuffs may only be treated by the action of ionising radiation if ... and if they are wholesome and in a proper condition;”	“(13) Whereas foodstuffs may only be treated by the action of ionising radiation if ... and if they are wholesome and in a proper condition; <u>since ionising radiation cannot be used as a substitute for hygiene or health practices or good manufacturing or agricultural practice.</u> ”
Article 4	Article 4
“1. The list of foodstuffs which may ...”	“1. The <u>Community</u> list of foodstuffs ...”
2. ...	2. ...
“3. The Commission shall examine the national authorisations in force and, after consulting the Scientific Committee for Food, submit in accordance with Article 100a of the Treaty proposals aiming at establishing the list.”	“3. The Commission shall examine the national authorisations in force and, after consulting the Scientific Committee for Food, submit in accordance with <u>the procedure laid down in Article 100a of the Treaty</u> proposals aiming at establishing the list.”
4. ...	4. ...

AMENDED PROPOSAL
for a European Parliament and Council Directive
on the establishment of a Community list of
foods and food ingredients treated with ionising radiation

Common position	Amended proposal
<u>Article 1</u>	<u>Article 1</u>
“1. Without prejudice to the <u>final</u> positive list to be established ...”	“1. Without prejudice to the <u>Community</u> positive list to be established ...”
2. ...	2. ...

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