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ANNEX

to the report drawn up by Mrs Simone MARTIN
on behalf of the Committee on the Environment, Public
Health and Consumer Protection

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OPINION of the Committee on Legal Affairs and Citizens'
Rights

OPINION

of the Committee on Legal Affairs and Citizens' Rights

Draftsman: Mrs E.C.A.M. BOOT

At its meeting of 26/27 February 1986, the Committee on Legal Affairs and Citizens' Rights appointed Mrs BOOT draftsman.

At its meeting of 1/2 April 1986 the committee examined the draft opinion and adopted its conclusions by 22 votes in favour with 2 abstentions.

The following took part in the vote: Mrs VAYSSADE, chairman; Mr TZOUNIS, first vice-chairman; Mr GAZIS, third vice-chairman; Mrs BOOT, draftsman; Mr ALBER, Mr AVGERINOS (deputizing for Mr Rothley), Mr BANDRES MOLET, Mr BATTERSBY (deputizing for Mr Price), Mr FILINIS (deputizing for Mr Gremetz), Mrs FONTAINE, Mr GARCIA AMIGO, Mr GOMES (deputizing for Mr Hoon), Mr MADEIRA (deputizing for Mrs Miranda de Lage), Mr MALANGRE, Mr PEGADO LIZ, Mr PEREIRA, Mr PORDEA, Mr ROSETTI (deputizing for Mr Barzanti), Mr SCHWALBA-HOTH, Mr STAUFFENBERG, Mr VERDE I ALDEA, Mr VETTER, Mr WIJSENBECK and Mr ZAGARI.

The following were also present: Mr BONDE, Mrs DE BACKER, Mr FERNANDEZ, Mr LACERDA DE QUEIROZ, Mr MARCK, Mr REMACLE and Mr WEDEKIND.

Introduction

The Commission's 'mini White Paper' entitled 'Completion of the internal market : Community legislation on foodstuffs' (COM(85) 603 final) sets out in greater detail the 'new approach' to the harmonization of legislation on foodstuffs. The Committee on Legal Affairs and Citizens' Rights considers it desirable to deliver an opinion on individual foodstuffs directives since the changes to the traditional method of harmonization have been made as a consequence of the 'Cassis de Dijon' judgment.

In paragraphs 7-9 of the mini White Paper, the Commission concludes that future Community legislation on foodstuffs should be limited to provisions justified by the need to protect consumer health, provide consumers with information and protection in matters other than health, ensure fair trading and provide for the necessary public supervision.

On the other hand the mini White Paper does not go into the other sphere in which the Commission will apply its new strategy, i.e. the mutual recognition of national regulations and standards based on Articles 30-36 of the EEC Treaty. This is one more reason for the Committee on Legal Affairs and Citizens' Rights to want to issue an opinion.

In the explanatory memorandum to the present proposal for a directive the Commission proposes that the term 'modified starches' should be taken to mean only chemically-modified starches since these are subjected to a toxicological examination. This means that the other three types of starch intended for human consumption will fall outside the directive.

Relationships between national and Community legislation on foodstuffs

The differences between national legislation on foodstuffs are to blame for a large number of restrictions on trade between the Member States. According to the traditional concept of harmonization, these differences would be removed by harmonization under Article 100 of the EEC Treaty. In view of industry's wish to have certainty as to the law it too has tended to support harmonization and this is now the case with the present proposal for a directive. The Advisory Committee on Foodstuffs and the Economic and Social Committee have come out in favour of a general directive covering all four types of starch.

The Committee on Legal Affairs and Citizens' Rights nevertheless fully agrees with the Commission's proposal and recognizes its courage in making a proper start on its 'new approach' by limiting its proposal to 'modified starches'.

If there are barriers to trade in the other types of starch, they must be cleared away by court rulings. Your rapporteur is aware that this may impose an extra burden on individual firms, but because of this attaches all the more importance to the new communication expected from the Commission on the mutual recognition of national regulations and standards in the field of foodstuffs.

Quality requirements

The Committee on Legal Affairs and Citizens' Rights again agrees with the Commission that the absence of Community quality requirements certainly need not and will not lead to a general reduction in quality, with the most liberal national rules becoming general practice. Quality levels are closely connected with the demand from the market.

Questions concerning the text

- A question of terminology in Dutch : in a number of articles (e.g. Articles 2 and 4) and recitals the words 'gebruikt' and 'aangewend' are used interchangeably. I think this lack of clarity creates confusion.
- In Article 2 the Member States appear to be authorized to lay down national provisions against fraud. Even Article 36 of the EEC Treaty does not give this right!
- Articles 4, 8 and 10 : it is still an open question who is to check on the purity criteria. How will it be established what is harmful to human health? There is hardly any definition of the general purity criteria in Annex 2. What, for example, is meant by 'abnormal flavour or odour'?

If the directive does not lay down who is responsible for enforcing it and who, in particular, is to oversee the purity criteria, the directive will almost certainly remain a dead letter.

- Article 7(2) : the information referred to in Article 7(1) may be entered in the commercial documents. Your rapporteur would like to know whether this is usual.

Conclusions

1. The Committee on Legal Affairs and Citizens' Rights approves the proposal for a Council directive on the approximation of the laws of the Member States relating to modified starches intended for human consumption. It agrees that it should be applied to the chemically treated sector.

2. The committee considers it necessary, since certain passages in the text are unclear, to recommend the following amendments :

Amendment No. 1

Article 2 : Delete the words : 'on grounds of the prevention of fraud'

Amendment No. 2

Article 5(1)(b) : Reword as follows:

'(b) The Member States must ensure that foodstuffs containing any modified starch for which in accordance with this directive temporary national authorization has been granted are officially monitored;'

Amendment No. 3

Article 6(1) : Reword as follows:

'If a Member State, that Member State may, after consulting the Commission, provisionally suspend wholly or in part the application of the relevant provisions within its territory. It shall inform the other Member States and the Commission of such action and of the reasons therefore.'

Amendment No. 4

Article 7(1) : Reword the first sentence as follows:

'The labelling of modified starches shall consist solely of the following mandatory wording given in a language which may be understood by the purchaser:'.

