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Report

drawn up on behalf of the Committee on Public Health and the Environment

on the proposal from the Commission of the European Communities to the Council (Doc. 7/73) for a Directive relating to the harmonization of the laws of the Member States concerning natural yeasts and yeast residues

Rapporteur: Mr Marcel BREGEGERE

By letter of 23 March 1973 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a Directive relating to the harmonization of the laws of Member States concerning natural yeasts and yeast residues.

On 4 April 1973 Parliament referred this proposal to the Committee on Public Health and the Environment as the committee responsible and to the Legal Affairs Committee for its opinion.

The Committee on Public Health and the Environment appointed Mr Brégégère rapporteur on 14 May 1973.

It discussed the proposal at its meetings of 15 May, 19 June and 10 July 1973.

On the basis of these discussions the committee decided to consult experts.

At its meetings of 22 January and 19 February 1974 it discussed the experts' answers to the questionnaire drawn up by the rapporteur, which had been adopted unanimously at its meeting of 11 September 1973.

On 10 May and 6 June 1974 the committee discussed a revised draft report submitted by the rapporteur on the basis of the experts' opinion. It unanimously adopted the motion for a resolution and explanatory statement on 1 July 1974.

The following were present: Mr Della Briotta, chairman, Mr Jahn, vice-chairman, Mr Brégégère, rapporteur, Mr Eisma, Mr Gibbons, Mr Glesener (deputizing for Mr Springorum), Mr Martens, Mr Petersen, Mr Premoli and Lord St. Oswald.

The opinion of the Legal Affairs Committee is attached.

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A

The Committee on Public Health and the Environment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive relating to the harmonization of the laws of Member States concerning natural yeasts and yeast residues

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council (COM (73) 330 final),
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 7/73),
 - having regard to the report of the Committee on Public Health and the Environment and the opinion of the Legal Affairs Committee (Doc. 194/74),
1. Welcomes the Commission's proposed directive as a useful step towards removing differences between Member States' laws concerning the composition, production characteristics, packaging and labelling of natural yeasts and yeast residues and finds that the Commission was justified in making Article 100 of the EEC Treaty the legal basis of its proposal;
 2. Supports the Commission's attempts to establish minimum public health requirements for yeasts intended for human consumption, while allowing for technical advances in manufacturing methods;
 3. Calls upon the Commission to submit at the earliest possible opportunity proposals for appropriate sampling procedures and analysis methods, harmonized at Community levels, to ensure effective control of compliance with the provision relating to the water used in the production of yeasts (Article 3(1) of the proposed directive);
 4. Agrees with the Commission that yeasts grown on alkanes (saturated hydrocarbons) may not be marketed as products fit for use in food for human consumption since they have not yet been proved harmless;
 5. Calls upon the Commission, however, in view of the world shortage of protein to actively support all research projects into the use of yeasts grown on alkanes for direct human consumption, and to submit a proposal

for a directive on the marketing of such yeasts in due course;

6. Urges the Commission once more to submit the proposal for a general directive on packaging materials for foodstuffs which it announced years ago, thus providing a standard solution to the basic problem of packaging hygiene at Community level;
7. Insists once again that manufacturers' details on the labelling of packages intended for consumer information must be given at least in the language of the receiving country;
8. Calls upon the Commission to specify the characteristics of dried baker's yeasts, the methods of yeast sampling and the analysis methods for testing the characteristics laid down in this directive at the latest by the date on which the directive is due to enter into force;
9. Believes that this directive should take effect throughout the Community within two rather than three years after notification;
10. Requests the Commission to make the following amendments to its proposal, pursuant to Article 149, second paragraph, of the EEC Treaty;
11. Requests its committee to check carefully whether the Commission of the European Communities modifies its proposal in conformity with the European Parliament's amendments, and if necessary, to report on the matter;
12. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

Council directive relating to the harmonization of
the laws of Member States concerning natural yeasts
and yeast residues

Introduction unchanged

Recitals 1 and 2 unchanged

WHEREAS, yeast is included in the list of products figuring in the fifth phase of the general programme of 28 May 1969 for removing the technical obstacles to trade due to differences in the laws, regulations and administrative provisions of Member States.

Recitals 3 and 4 unchanged

WHEREAS, dead natural yeasts constitute, inter alia, a considerable source of proteins, and yeasts are cultivated to that end on various media; it is necessary to have regard to the state of the progress of research in this sphere and to prohibit for the time being the use in food for human consumption, of yeasts grown on alkanes (saturated hydrocarbons);

WHEREAS, (delete one word) natural yeasts constitute, inter alia, a considerable source of proteins, and yeasts are cultivated to that end on various media; it is necessary to have regard to the state of the progress of research in this sphere and to prohibit for the time being the use in food for human consumption, of yeasts grown on alkanes (saturated hydrocarbons);

Recitals 6, 7 and 8 unchanged

Article 1

1. In this Directive, natural yeasts and yeast residues mean the products defined in the Appendix
2. Subject to the provisions of paragraph 3, this Directive applies to the products defined in paragraph 1 which are intended for use in food for human consumption or for use in industry.
3. The provisions of this Directive other than Appendix Chapter 1 A and C and Chapter II do not apply to yeasts defined in Regulation (EEC) No. made by the Council which concerns trade in animal feeding stuffs.

Article 1

1. unchanged
2. Subject to the provisions of Paragraph 3, this Directive applies to the products defined in paragraph 1 which are intended for use in food for human and animal consumption (delete 5 words)
3. unchanged.

Article 2 unchanged

Article 3

1. The water used in the production of the products defined in Article 1(2) shall be recognized as drinking water.
2. The natural yeasts intended for use in foodstuffs for human consumption must not have been subjected to any qualitative or quantitative modification to their natural composition, and must not contain any preservative, pH corrector, colouring matter or other additive.
3. Notwithstanding the provisions of paragraph 2 the following are permitted:
 - (a) in yeasts defined in the Appendix Chapter I B (1) (2) the presence of substances exclusively intended to ensure the feeding and the growth of the yeasts and to maintain their characteristics, but only in quantities absolutely necessary to achieve these objectives.
 - (b) in yeasts defined in the Appendix Chapter I B (3) the presence of traces of starchy substances and/or fats or oils whose use is inherent in the technical processes of manufacturing yeast.

Article 3

1. The water used in the production of the products defined in Article 1(2) shall meet the bacteriological and chemical criteria for drinking water.
2. The natural yeasts intended for use in foodstuffs for human consumption shall not contain any substance liable to harm the health of the consumer.
3. Notwithstanding the provisions of paragraph 2 the following are permitted:
 - (a) unchanged
 - (b) unchanged

(c) in yeasts in the Appendix Chapter I B (3) (a) the presence of emulsifiers exclusively intended to ensure that the rehydration of yeasts but only in quantities absolutely necessary to achieve this objective.

(c) unchanged

(d) in the yeasts mentioned in (a), (b) and (c) above, the presence of sodium chloride

4. Notwithstanding the provisions of paragraph 2 Member States may permit trade in yeasts defined in the Appendix Chapter I B (3) in which substances intended to improve and maintain the characteristics of these yeasts have been incorporated in such quantities, or within such limits as the presence of these substances is permitted in bread products in whose manufacture the yeast in question is used.

4. unchanged

Article 4

Paragraph 1, (a) and (b) unchanged

1. (c) They must not contain the elements set out in this sub-section in a proportion greater than the proportion indicated against each of them,

Selenium	1	p.p.m.
Arsenic	2	p.p.m.
Mercury	0.1	p.p.m.
Lead	5	p.p.m.
Zinc	50	p.p.m.
Copper	120	p.p.m.

Paragraph 1 (d) unchanged

Paragraphs 2 and 3 unchanged

Articles 5 to 8 unchanged

Article 9

Paragraph 1(a) to (n) unchanged

2. When the products referred to in Article 1 (2) are packed in containers or packages with a nett weight of more than 100 kg and are not intended to be offered in unaltered state for retail sale, the details referred to in paragraph 1 may be given on the invoices and accompanying documents.

Article 4

Paragraph 1, (a) and (b) unchanged

1. (c) They must not contain the elements set out in this sub-section in a proportion greater than the proportion calculated on the dry matter, indicated against each of them,

Selenium	1	p.p.m.
Arsenic	5	p.p.m.
Mercury	0.1	p.p.m.
Lead	5	p.p.m.
Zinc	200	p.p.m.
Copper	120	p.p.m.

- (o) for the yeasts listed in Appendix Chapter 1 B (3) particulars of the substances mentioned in Article 3 (3) (b) or traces of such substances.

2. When the products referred to in Article 1 (2) are packed in containers or packages with a nett weight of more than 50 kg and are not intended to be offered in unaltered state for retail sale, the details referred to in paragraph 1 may be given on the invoices and accompanying documents.

Article 10 unchanged

Article 11

Article 11

Paragraph 1 unchanged

2. Notwithstanding the provisions of paragraph 1:
- (a) The Member States may request that the details listed in Article 9 under (a) to (n) be written in their own national languages;
- (b) The Member States who do not make use of the option provided for in Article 3 paragraph 4 may prohibit the marketing of bread-making yeasts containing substances foreign to their natural composition, other than those referred to in Article 3 paragraph 3.
2. Notwithstanding the provisions of paragraph 1:
- (a) The Member States must request that the details listed in Article 9 under (a) to (o) be written in their own national languages;
- (b) unchanged

Article 12

Article 12

The following shall be determined according to the procedure laid down in Article 13:

The following shall be determined according to the procedure laid down in Article 13, at the latest by the date on which this directive comes into force:

(a), (b) and (c) unchanged

The list contained in the Appendix Chapter I A may be amended by the same procedure and on the basis of the results of scientific studies¹

unchanged

Article 13

Article 13

Paragraphs 1 and 2 unchanged

3. (a) The Commission shall adopt the measures envisaged when they are in conformity with the opinion of the Committee;
3. The Commission shall adopt measures which must be carried out forthwith.
When they do not conform with the

¹ Translated by secretariat of European Parliament; this paragraph is omitted in English version of COM(73) 330 final

(b) When the measures envisaged are not in conformity with the opinion of the Committee, or if there is no opinion, the Commission shall immediately submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority vote;

opinion of the committee, however, the Commission shall immediately notify the Council thereof. The Commission may then postpone implementation of the measures it has adopted until one month after notification thereof. The Council, acting by a qualified majority, may decide differently within a period of one month.

(c) If at the end of a three month period as from the time the matter was laid before the Council, the latter has not acted, the proposed measures shall be adopted by the Commission.

Article 14

Article 14

This Directive shall not apply to products referred to in Article 1 (2) which are exported to third countries, provided that the labelling of such products does not mention that the said products conform to the provisions of this Directive.

This Directive shall not apply to products referred to in Article 1 (2) which are exported to third countries and are labelled differently.

Article 15

Article 15

Paragraph 1 unchanged

2. After a supplementary period of two years the thus modified legislation shall apply to the products produced in or imported into the Community.

2. After a supplementary period of one year the thus modified legislation shall apply to the products produced in or imported into the Community.

Paragraph 3 unchanged

Article 16 unchanged

Appendix unchanged

EXPLANATORY STATEMENTI. Introduction

1. In view of the complexity of the Commission's proposal for a directive on natural yeasts and yeast residues, the Committee on Public Health and the Environment decided, at its meeting of 10 July 1973, to consult experts on this proposed directive. For this purpose the rapporteur drew up a questionnaire which the committee adopted unanimously at its meeting of 11 September 1973 (PE 33.773 fin).

The rapporteur collated the answers to the questionnaires given by the expert bodies in a summary (PE 35.183) which was given detailed consideration by the committee. The outcome of these deliberations is reflected in the present revised draft report.

II. General considerations

2. In the absence of air natural yeasts make sugars ferment, at the same time producing carbon monoxide and alcohol. This is why they have been used for centuries to manufacture fermented drinks and make bread from wheat flour. Yeasts multiply and die when exposed to air and sugar.

Natural yeasts are very rich in proteins and vitamins, and have long been used for animal feed purposes. Both dead and living yeasts with their still active ferments can be stabilized for this purpose.

To the enrichment of animal feeds by the high protein and vitamin content of yeasts is thus added the considerable catalytic effect of the ferments, which optimizes the nutritional process and improves, especially for ruminants, the digestibility of cellulose, making it easier to assimilate fully.

These factors, as well as others of an economic nature, make stabilized natural living yeasts - especially those used in or recovered from the food industry in general and breweries in particular - a particularly valuable Community source of protein for use in animal feedstuffs.

In April 1971 the Commission submitted to the Council a proposed regulation on trade in feedstuffs¹, in which yeasts are listed as simple feedstuffs. But it has become apparent that both living and dead yeasts can be classified under a single heading and the various rules for these products based on a single definition. Moreover, the consumer should be enabled to distinguish between natural yeasts and purely chemical products such as the baking powders which are wrongly called 'artificial yeasts'. The directive does not cover these yeasts.

¹OJ No. C 34, 14 April 1971, p.8

3. The proposed directive deals with these problems. Moreover, as stated in the Motivation (p.2), the Commission believes it would be useful to lay down a common ruling establishing minimum requirements in respect of public health, but, without prejudice to scientific progress in yeast production.

4. The ruling envisaged by the Commission lays down special requirements for the composition of baker's yeasts, which represent the major part of living yeast production. It establishes relatively severe requirements in the bacteriological and toxicological field, which your committee welcomes. These requirements are even more stringent in the case of yeasts for human consumption.

5. The Commission noted that differences in Member States' current provisions laid down by law, regulation or administrative action on the composition and production characteristics of yeasts and their packaging and labelling create unequal conditions of competition between yeast producers and between users (e.g. bakeries).

III. Substances of the provisions of the proposal for a directive

6. The fifth recital states that dead natural yeasts constitute, inter alia, a considerable source of proteins. As already mentioned above in paragraph 2 of the explanatory statement this also applies to living natural yeasts.

The Committee on Public Health and the Environment therefore considers that for the sake of clarity the word 'dead' should be deleted from the fifth recital.

7. Article 1 defines the scope of the directive. The products defined in the Appendix constitute natural yeasts and yeast residues. The directive applies to these products insofar as they are intended for use in food for human consumption or for industrial purposes.

According to Article 1 (3), the directive does not apply to yeasts covered by the future Council Regulation No. on trade in animal feed-stuffs. But the provisions of this directive do apply to these yeasts insofar as they concern:

- the general definition of yeasts (Appendix, Chapter I A),
- the definition of dead natural yeasts (Appendix, Chapter I C),
- yeast residues (Appendix, Chapter II).

The committee wondered whether, in the interests of uniform legislation, clarity and, not least, more effective consumer protection, it would not be more to the point if the directive were to cover natural yeasts only in so far as these are considered as foodstuffs and are intended for human consumption. This was one of the questions it put to the experts.

After considering the answers received, the committee believes that Article 1 (2) of the proposal for a directive should be amended as follows:

'Subject to the provisions of paragraph 3 this Directive applies to the products defined in paragraph 1 which are intended for use in food for human and animal consumption'.

This would mean that products for use in industry would not come under the scope of the directive. On the other hand the directive would then cover yeasts intended for use in animal feeds.

This is fully justified if it is borne in mind that human beings must be protected not only against the harmful influence and effects of yeasts in bread but also against yeasts added to animal feeds which might ultimately disrupt the health of human beings who have consumed them in the meat of animals fed with yeasts (food chain).

8. Article 2 contains the usual provision obliging Member States to take all necessary measures to ensure that natural yeasts and yeast residues can only be marketed if they comply with the provisions of this directive and of the Appendix thereto.

9. According to Article 3 (1), water used in the production of natural yeasts and yeast residues must be recognized as drinking water.

The committee questions the sense of this provision bearing in mind that different Member States have different rules on the quality of drinking water and it would be very difficult, if not impossible, to ensure compliance with Article 3 (1). It therefore asked the experts whether this particular provision should not be deleted or whether it would be more appropriate to amend it to the effect that the water used must meet the bacteriological standards of drinking water.

The provision that this water must 'be recognized as drinking water' is indeed too vague. Moreover, there is no standard definition in the Member States for drinking water. Bearing these considerations and the answers of the experts in mind the committee's conviction was that Article 3 (1) should be amended as follows:

'The water used in the production of the products defined in Article 1 (2) must meet the bacteriological and chemical criteria for drinking water'.

The committee also believes that attention should be drawn to this problem as follows in the motion for a resolution:

'The European Parliament ... calls upon the Commission to submit at the earliest possible opportunity a proposal for the harmonization at Community level of sampling procedures and analysis methods to ensure effective control of compliance with the provision relating to the water used in the production of yeasts (Article 3 (1) of the proposed directive).

There was broad agreement amongst the experts on the view which was shared by the committee that the general clause of Article 3 (2) should be amended as follows:

'The natural yeasts intended for use in foodstuffs for human consumption shall not contain any substances liable to harm the health of the consumer.'

One expert body did in fact advocate a somewhat different formulation which put the emphasis on the quantitative aspect. Its proposal for the wording of Article 3 (2) was as follows:

'The natural yeasts intended for use in foodstuffs for human consumption must not contain such quantities of substances as to make them prejudicial to the consumer's health'.

The committee, however, rejects this solution since this concept of quantity is vague and open to very different interpretations. And the accumulation effect must not be overlooked. Substances prejudicial to health should therefore not be used in yeasts, even in small quantities.

10. The Commission indicates a number of exceptions to the general provision (cf. Article 3 (3)) which it justifies by reference to technical manufacturing requirements.

The committee does not believe that these exceptions should be deleted, nor did any of the organizations consulted. It does, however, insist that all these products must be declared, i.e. suitably designated for the consumer's information.

The committee has no objection to the proposal by a number of organizations to allow sodium chloride (common salt) as an additive in yeasts. It therefore requests the Commission to add the following subsection d to Article 3 (3): 'Notwithstanding the provisions of paragraph 2 the following are permitted...d) in the yeasts mentioned in (a), (b) and (c) above, the presence of sodium chloride'.

11. Article 3 (4) enables Member States to permit a further exception, namely the incorporation in baker's yeasts of certain substances to improve and maintain their characteristics, in so far as the presence of these substances is permitted in bread products in whose manufacture the yeast in question is used.

Many experts believe that this provision would be difficult to apply as it is liable to create a confused situation on the baker's yeast market. It also gives rise to obstacles to the marketing of yeasts destined for export.

In the interests of harmonization with existing or planned Community rules, however, the committee favours the retention of the Commission's proposed text.

12. Article 4 lays down requirements for natural yeasts and yeast residues intended for human consumption:

- (a) they must not come from strains of pathogenic yeasts;
- (b) they must be free of pathogenic bacteria and toxins;
- (c) they must not contain the elements listed below in a proportion greater than that indicated against each of them, namely:

- selenium	1 ppm
- arsenic	2 ppm
- mercury	0.1 ppm
- lead	5 ppm
- zinc	50 ppm
- copper	120 ppm

- (d) they must not show any deterioration in their hygienic, organoleptic and biological characteristics due inter alia to any residual traces of the components of the medium used which might be harmful to health.

It seems surprising that for such poisonous substances as arsenic the permissible proportion is 2 p.p.m. Furthermore, the figures of 50 p.p.m. for zinc and as much as 120 p.p.m. for copper seem to be very high. The committee therefore asked the experts whether they considered the maximum given for the individual elements reasonable, too high or too low.

The individual organizations recommended widely varying maxima for permissible amounts of chemical elements in yeast.

Most experts recommend the indication of dry matter as the reference standard for the proposed maxima given for selenium, arsenic, mercury, lead, zinc and copper.

The committee supports this recommendation. It points out, however, that in this case the permissible maxima for certain elements should be somewhat increased because of the decrease in the weight of the reference standard (dry mass instead of fresh yeast). This results in the following values:

- selenium	1 ppm
- arsenic	5 ppm
- mercury	0.1 ppm
- lead	5 ppm
- zinc	200 ppm
- copper	120 ppm

The committee therefore insists, in the interests of consumers' health that the maxima be fixed as above. It should be noted in this connection that the Commission also consulted experts on this specific question.

Furthermore, Article 4(1), sub-section c, should be supplemented as follows: 'They must not contain the elements set out in this sub-section in a proportion greater than the proportion calculated on the dry matter indicated against each of them.'

13. Article 4 also states that yeasts for reproduction (or mother yeasts) shall be kept at a temperature not exceeding 4°C, from the time of production until delivered, and by the purchase until he uses the products.

The committee put the question whether this provision could be implemented in practice and whether an effective check could be made.

Several of the expert bodies consulted were in favour of deletion of the provision. They pointed out that:

- (a) it is practically impossible to observe this provision in every respect,
- (b) it would not be possible to check whether it was being observed,
- (c) strict application of the provisions would give rise to considerable costs which would have to be borne by the ultimate consumer,
- (d) there was no justification for a provision of this kind where dry yeast was concerned.

The committee nevertheless unanimously decided in favour of retaining the text proposed by the Commission.

14. Article 4(2) states that baker's yeasts must not contain more than 100 rophy bread bacilli per gram calculated on the dry matter. The answers given by several organizations indicate that it is not the baker's yeast which causes the ropiness in bread but the frequent lack of hygiene in bakeries.

The Commission nevertheless considered it appropriate, in view of a specific case involving the poisoning of bread in a Member State, to fix a maximum limit of 100 of these bacilli per gram of dry matter.

The committee therefore approves the Commission's provision which is in the interests of the consumer.

Finally, Article 4 (3) gives a list of bacteriological characteristics which dead yeasts and yeast residues must have if they are to be used in food for human consumption. The committee endorses these provisions.

15. According to Article 5, yeasts grown on alkanes (saturated hydrocarbons) and yeast residues obtained from this yeast may not be marketed as products for human consumption.

As the Commission states in the Motivation (pp.2.3), the production of yeasts on alkanes opens up very interesting prospects for yeast production. However, the Commission considered it wiser to prohibit the use of these yeasts for human consumption until they are proved harmless.

On this problem most of the organizations replied that a special directive should be drawn up for yeasts grown on alkanes. One organization was in favour of the deletion of Article 5.

The committee believes, however, that the European Parliament must support retention of the prohibition contained in Article 5 of the Commission's proposal until the harmlessness of yeasts grown on alkanes has been proved.

In paragraph 5 of the motion for a resolution it calls on the Commission, however, in view of the world protein shortage, to actively support all research projects into the use of yeasts grown on alkanes for direct human consumption and to submit a proposal for a directive on the marketing of such yeasts in due course.

16. Article 6 lays down that packaging materials for natural yeasts for human consumption and yeast residues must not be such as to affect their biological, organoleptic, bacteriological or chemical qualities.

In this context, the committee reiterates its request to the Commission finally to submit the proposal for a general directive on packaging materials which it has been announcing for years. A 'horizontal' directive of this kind could settle once and for all the fundamental problem of packaging hygiene and remove the need for special provisions in the food sector in every other proposed directive. This request is formulated in Para. 6 of the motion for a resolution.

17. Article 7 states that fresh yeasts may only be marketed in net weights including packaging of 500 g or multiples thereof, 'when the weight is more than 450 g.' This means that fresh yeasts of 450 to 499 g may not be marketed to prevent the consumer from being confused or misled.

The rapporteur had suggested the following modified wording:

'The products referred to in the Appendix, Chapter I B 3 (b) may be marketed only in net weights when packed of 500 g or multiples of 500 g; this does not apply to weights of less than 450 g.'

However, the committee unanimously favoured the retention of the Commission's proposal.

The organizations differ in their opinions on the desirability of the provisions regarding weight. Some agree with the Commission's proposal, others believe that indication of the net weight would suffice, without this having to be 500 grams or a multiple of 500 grams.

Your committee endorses the provisions since it protects the consumer.

18. Article 8 stipulates that the designations 'baker's yeast' or 'bread-making yeast', 'active dried yeast', 'food yeasts' and 'yeast residues' shall be reserved for the products listed in the Appendix to which they refer and must be used in trade descriptions.

The committee put the question whether this provision was necessary in view of the provision of Article 10 on the protection of the consumer (cf para. 20 of the explanatory statement).

In their replies to this question, some organizations agreed with the Commission's proposal contained in Article 8 (definition of specific names for specific products), whilst others were of the opinion that Article 8 was superfluous in view of the prohibition of fanciful names contained in Article 10. Others had doubts about the nature of Article 10 and wished to see it deleted.

The committee proposes retention of both Article 8 and Article 10 as they govern different sets of circumstances and both serve to protect the consumer from being deceived and misled.

However, the committee has doubts - which are, furthermore, shared in the opinion of the Economic and Social Committee - about the use of the word 'yeast residues' which could be understood as being derogatory. It therefore calls on the Commission to investigate whether it would not be better to use the term 'processed yeasts'. If the Commission accepts these considerations the name should be changed not only in Article 8 but also in the title and Appendix of the proposal for a directive.

19. Article 9 provides for cases in which the packaging or labels must bear easily visible, clearly legible and indelible details. These cases are listed in Article 5 (1) (a) to (n). The most important examples are as follows:

- for products which do not correspond to the requirements of Articles 3 and 4 and yeasts cultivated on alkanes (Article 5) the words 'prohibited in food for human consumption' (c);
- for fresh yeasts, the net weight when packed in kilograms or grams and for other yeasts the net weight in kilograms or grams (d);
- for mother yeasts and baker's yeasts the words 'keep cool' (i);
- for dead natural yeasts their respective contents by weight in proteins (minimum content) and in water (maximum content) and an indication of the medium upon which they were grown (k);
- for yeasts imported from third countries and yeast residues an indication of the country of origin (n).

The list of details to be declared (see Article 9 (1) (a) to (n)) is not complete. The committee urges that any traces of the presence of starchy substances and/or fats in baker's yeasts (see Article 3 (3) (b)) must also be declared. Accordingly, the committee requests the Commission to add the following new subparagraph (o) to Article 9 (1):

- ' - for the yeasts referred to in the Appendix Chapter 1 B (3), indication of the substances or traces thereof listed in Article 3 (3) (b).'

The committee did, however, raise the questions whether all the details listed in Article 9 were necessary or whether some of them could be dispensed with.

The answers received from the organizations varied greatly on this point. Some bodies were in favour of deletion of some of the details.

The committee cannot agree to the deletion of a part of the instructions given in Article 9. In its opinion all the details given are in the interests of the consumer and should therefore be retained.

There was, however, a difference of opinion in the committee as to the usefulness of the details provided for in Article 9 (1) (j) on the medium upon which the products are grown and the origin of the yeast. The rapporteur's proposal to delete this provision was rejected by six votes to three with one abstention.

Under Article 9 (2) details only have to be shown on invoices and documents accompanying the products supplied when the yeasts are packed in containers or packages with a net weight of more than 100 kg and are not intended to be offered for sale in this form.

The committee believes that for practical reasons this provision should be extended to cover yeasts in containers or packages with a net weight of more than 50 kg. Article 9 (2) should therefore be amended accordingly.

20. The committee also approves Article 10, which prohibits any fanciful names, symbols, pictures and other signs figurative or otherwise on the labelling and presentation for sale of these products, and in publicity concerning them, suggesting a characteristic which the products in question do not possess and which might for that reason mislead the consumer.

21. Article 11 (1) forbids Member States to prohibit or hinder trade in natural yeasts and yeast residues for reasons concerning composition, production characteristics, packaging and labelling if these products satisfy the provisions of this directive and its Appendix.

This provision is a logical sequence to Article 2 and so obvious as to appear superfluous in the light of the binding provision of Article 2.

Bearing in mind that it can do no harm to repeat the same provision in a different form, the committee endorses Article 11 (1).

22. Article 11 (2) (a) enables Member States to request that the details to be declared on the labelling shall be written in their own national language.

This leaves it to each Member State to decide whether or not it requires clearly marked details intelligible to the consumer. However, the consumer cannot be expected to fully understand information in a foreign language. So there is a risk of mistakes and misunderstandings at the consumer's cost.

This is why in similar cases your committee has always asked for this provision to be made binding. It therefore asks for Article 11 (2) (a) to be amended as follows:

'By way of derogation from the provisions of paragraph 1, Member States must require that the details listed in Article 9 under (a) to (o) shall be written in their own national languages;'

23. According to Article 11 (2) (b), Member States who do not make use of the option of allowing certain substances to be added to baker's yeasts (see Para. 11, first sub-paragraph of this explanatory statement) provided for in Article 3 (4) may prohibit the marketing of bread-making yeasts containing substances foreign to their natural composition other than those referred to in Article 3 (3).

The committee supports this provision in view of its approval of Article 3 (4) of its proposal for a directive.

24. Article 12 provides that the following shall be determined by a procedure involving the Standing Committee on Foodstuffs:

- the characteristics of the active dried yeast, especially its fermentation performances;
- the methods of taking samples of the natural yeasts and yeast residues

- intended for human consumption or industrial purposes;
- the analysis methods for testing their characteristics as specified in this directive;
 - changes in the list of yeast types (Appendix, Chapter I, A).

Since these are technical implementing measures which the Commission must adopt (on the expert opinion of the Standing Committee on Foodstuffs) in order to simplify and speed up the procedure, the committee endorses Article 12 according to its custom in similar cases.

However it requests that the characteristics, sampling and analysis methods listed in Article 12 should be fixed when this directive comes into force at the latest. This request follows the committee's earlier attempts in similar cases to make directives as binding and comprehensive as possible from the outset. The experts also unanimously agreed that full application of the directive was only possible if these procedures were standardized.

25. In connection with Article 13 defining the procedure of the Standing Committee on Foodstuffs your committee endorses the European Parliament's past attitude on the institutional aspect of this question and proposes the usual amendments.

26. Article 14 provides that the directive shall not apply to natural yeasts and yeast residues intended for export to third countries 'provided that the labelling of such products does not mention that the said products conform to the provisions of this Directive'.

This restriction is new. In similar cases your committee has always requested - and the plenary assembly of the European Parliament has endorsed this view - that products intended for export to third countries should be labelled differently to prevent them from coming within the scope of Community provisions. The Commission's new wording does not accord with the committee's views and objectives (i.e. that the directive should not be bypassed by production and storage of products allegedly intended for third countries).

The committee, by five votes with one with four abstentions, stood by its earlier request for a different labelling for yeasts for export to third countries. Article 14 should accordingly be amended as follows: 'This directive shall not apply to products referred to in Article 1 (2) which are exported to third countries, and are differently labelled'.

27. Article 15 (1) provides that within one year of notification of this directive Member States shall bring their legislations into line with it and inform the Commission thereof immediately.

Article 15 (2) provides that the directive shall apply

to the products produced in or imported into the Community after a supplementary period of two years.

This means in practice that the directive will only be implemented three years after notification, i.e. in 1977 at the earliest, on the optimistic assumption that the Council will reach agreement within six months. The committee therefore suggests shortening the period of two years laid down in Article 15 (2) to one year. This will still give producers an adjustment period of two years, which should be wholly sufficient.

28. Article 15 (3) provides as usual that after notification of this directive Member States shall inform the Commission in sufficient time for it to submit its observations of any subsequent legal or administrative draft provisions which they intend to adopt in the sector covered by this directive.

This provision answers your committee's repeated request and it therefore approves it.

29. The Appendix lists the following definitions for the individual products covered by the directive:

- a general definition for natural yeasts (Chapter I A),
- a definition for live natural yeasts (Chapter I B),
- a definition for dead natural yeasts (Chapter I C),
- a definition for yeast residues (Chapter II).

The committee presumes that these definitions were drawn up by experts, one of whose concerns was the protection of the health of consumers. With this reservation and with reference to its request to the Commission to reconsider the designation 'yeast residues' and possibly replace it by 'processed yeasts' the committee accepts the definitions contained in the Appendix.

IV. Observations on the opinion of the Legal Affairs Committee

30. The committee has given detailed consideration to the opinion drawn up by Mr Brewis on behalf of the Legal Affairs Committee. The full text of the opinion is attached to this report.

31. The Legal Affairs Committee notes that the system of total harmonization is followed in this directive; it expresses the same views as your committee on the legal basis for the directive, as follows: 'since the differences between national laws - because of the resultant obstacles to intra-Community trade - directly affect the establishment and functioning of the Common Market, the legal basis of the draft directive under consideration is furnished by Article 100 of the EEC Treaty'.

32. The Legal Affairs Committee also points out that the proposal for a regulation should be seen as practical application of the general programme of 28 May 1969 for removing technical obstacles to trade in foodstuffs¹. It therefore urges that the following consideration be added to the preamble: 'whereas, yeast is included in the list of products figuring in the fifth phase of the general programme of 28 May 1969 for removing the technical obstacles to trade in foodstuffs due to differences in the laws, regulations and administrative provisions of Member States.'

33. The Legal Affairs Committee endorses the view of your committee that in the interests of consumer protection the use of the national language or languages should be made compulsory for the labelling of yeasts. It rightly points out that this binding provision will prevent arbitrary, varying application of the labelling provisions in the individual Member States. It also considers that this provision should be transferred from Article 11 (2) (a) to Article 9 and that a new paragraph 3 be added to Article 9, to read as follows:

'Member States shall ensure that the indications referred to in paragraph 1 (a) to (c) and (e) to (n) are given in the national language or languages, if the interests of the consumer so require'.

The Committee on Public Health and the Environment believes on the other hand that the provision, being an exceptive provision to Article 11(1), should be included in Article 11(2). Nor is the committee able to endorse the restriction proposed by the Legal Affairs Committee that the details need only be given in the national language 'if the interests of the consumer so require'. Apart from the fact that this restriction is open to very different interpretations in different Member States, your committee is convinced that in nearly every case the consumer has an interest in being able to read in his own language the details and information contained in product labels. Accordingly the amendment to Article 11 (2) (a) proposed by the committee in paragraph 22 of the explanatory statement is retained; the end result meets the purpose intended by the Legal Affairs Committee.

34. Finally, your committee could not accept the wish of the Legal Affairs Committee for the deletion of Article 11 (2) (b), since it voted for the retention of Article 3 (4) (cf para. 23 of the explanatory statement).

¹OJ No. C 76, 17 June 1969, p. 7

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Draftsman: Mr J. BREWIS

The Legal Affairs Committee appointed Mr BREWIS draftsman of the opinion on 2 May 1973.

The committee discussed and unanimously approved the draft opinion at its meeting of 19 June 1973.

The following were present: Mr Bermani, vice-chairman; Mr Brewis, draftsman of the opinion; Mr Armengaud, Mr Ballardini, Mr Brugger, Mr Corterier, Mr Delmotte (deputizing for Mr Broeksz), Mr Héger, Mr Lautenschlager, Mrs Nielsen, Mr Vermeulen, Mr Vernaschi and Sir Derek Walker-Smith.

I. INTRODUCTION

1. The differences between the laws in force in certain Member States on the composition and manufacture of natural yeasts create unequal conditions of competition, which constitute a barrier to the free movement within the Community of the products concerned.

To remove these obstacles to trade, the Commission has deemed it necessary to subject the products in question to a Community regulation.

2. The present draft directive and the appendix thereto stipulate a number of minimum requirements which natural yeasts and yeast residues - at all events those intended for human consumption - must in all cases satisfy before they can be put on the market (Article 2).

The requirements contained in the directive thus replace existing national provisions. This means that the system of total harmonization is followed in this directive.

3. Since the differences between national laws - because of the resultant obstacles to intra-Community trade - directly affect the establishment and functioning of the common market, the legal basis of the draft directive under consideration is furnished by Article 100 of the EEC Treaty.

II. REMARKS

It does not fall within the terms of reference of the Legal Affairs Committee to examine the technical details of this matter. Consequently, your draftsman will confine his remarks to the presentation and the more general aspects of the directive.

4. Yeast is mentioned in the list of products contained in the general programme, established by the Council on 28 May 1969¹, for removing technical obstacles to trade in foodstuffs due to differences in the laws, regulations and administrative provisions of Member States.

¹ OJ No. C76, 17 June 1969, p.7.

Seeing that this draft directive represents a concrete application of the aforementioned general programme, it is rather strange that the general programme is never referred to either in the considerations on which the directive is based or in its explanatory statement. Instead, the directive appears out of the blue without any framework of reference or background information. This does not make for the orderly progress of harmonization activities. This presentation of the directive in isolation could provoke questions, especially from persons unacquainted with Community law.

It is not the first time that the Legal Affairs Committee has encountered such an omission. As on previous occasions¹, your draftsman urges that, in this case too, the following consideration be added to the preamble:

considering that yeast is included in the list of products figuring in the fifth phase of the general programme of 28 May 1969 for removing the technical obstacles to trade in foodstuffs due to differences in the laws, regulations and administrative provisions of Member States².

5. Since the purpose of Article 11 (2) (a) is to protect the consumer, your draftsman asks the Commission to consider making the use of the national language or languages compulsory while adding this restrictive condition. This will, moreover, prevent the provision in question from being applied arbitrarily and in different ways in the different Member States.

It would further be desirable if the provision of Article 11 (2) (a) were transferred to Article 9. Both provisions relate to the indications that have to be shown on the packaging. Having regard to various factors, your draftsman proposes that Article 11 (2) (a) be deleted and a new paragraph 3 be added to Article 9, to read as follows:

3. Member States shall ensure that the indications referred to in paragraph 1(a) to (c) and (e) to (n) are given in the national language or languages, if the interests of the consumer so require.

In conclusion, your draftsman is of the opinion that Article 11(2) (b) is completely superfluous since the content of this provision is inferable a contrario from the provisions of Article 3(2) and (3) in conjunction with Article 11(1). Consequently, Article 11(2) (b) could be deleted entirely.

¹ ARMENGAUD report on radio interference, Doc. 340/72.

ORTH report, on cosmetic products, Doc. 35/73

DUVAL opinion on bread, PE 32.703/fin.

² OJ No. C 76, 17 July 1969, p.7.