

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION REPORT TO THE COUNCIL

on the action to be taken following the requests for comments on the
carry-over principle concerning food additives contained in
the letter sent by the secretariat of the Joint FAO/WHO Food Standards Programme

(OL 1974/13 August 1974)

Subject: Commission Report to the Council on the action to be taken following the requests for comments on the Carry-over principle concerning food additives contained in the letter sent by the secretariat of the Joint FAO/WHO Food Standards Programme (CL 1974/33 August 1974).

By letter of August 1974, reference CL 1974/33, the Secretariat of the FAO/WHO Codex-Alimentarius Food Standards Programme asked for government comments on the version of the "Carry-over principle" appearing in Annex III of the Report of the Ninth Session of the Codex Committee on Food Additives (ALINORM 74/12).

At the moment, the Community has no common rules on the question of "Carry-over". However, the Commission is elaborating a proposal for a Directive on Labelling of Foodstuffs, and discussions are taking place on the problem of the labelling of ingredients (including additives) found in the food by this means.

In addition Codex provisions may have an incidence on Trade. A coordinated approach of the Member States is therefore necessary.

In the light of comments received from the Member States, the Commission proposes that the FAO/WHO Secretariat, and the Chairman of the Codex Committee on Food Additives be informed by the Member States that the version as drafted in Alinorm 74/12 App. III is not satisfactory and that the revised version in Annex II of this note would be found more acceptable.

Annex I of this note summarizes the reasons for the changes that have been proposed by the Commission.

[Note: Paragraph numbers refer to the Codex Document unless stated otherwise].

Summary of the reasons for the changes that have been made to the FAO/WHO
Codex proposal
Paragraph 1

The paragraph states that the "carryover principle" applies to the presence of additives in food and is not intended to relate to any labelling provision.

The decisions to be taken under 2(d) are in some ways related to the problem of labelling but are separate from it. In both cases each subject will have to be treated individually, and it is possible that it may be decided that the point at which labelling is required will be the same as that at which the additive becomes "functional". This question will have to be resolved by the Codex Committee on Labelling.

To emphasize that the labelling of the food is not under consideration the words "and is not concerned with the labelling of such food" have been added.

Paragraph 2

The Commodity Committee has the right to decide that the carryover principle does not apply in a particular case (e.g. foods for babies under the age of 12 weeks). This "right" is mentioned in the first part of paragraph 2, but the proposal of the Commission brings this out more clearly (see paragraph 4 of the Commission proposal).

Paragraph 2(a)

(i) For the purposes of the Codex Alimentarius "ingredients" includes additives. However, to emphasize that additives may themselves be associated with other additives (e.g. solvents with colours), the Commission proposal mentions "..... ingredient (including additives)"

(ii) The paragraph has also been modified to emphasize that the non-Codex Standards referred to should be based on standards or specifications having a sound base from the point of view of health.

Paragraph 2(b)

Amended as in (i) above.

Paragraph 2(c)

This paragraph has been editionally simplified in the Commission proposal.

Paragraph 2(d)

(i) The paragraph as drafted makes no provision for the presence of breakdown products of the additive which may also be present in small quantities as a result of interaction between the additive and the components of the food.

It has been suggested that the paragraph could make reference both to "additive" and its "breakdown products" and there are advantages in indicating both in the text. Member States may, however, believe that this is part of the wider problem of the breakdown of additives generally in food. The Commission proposal leaves the subject for discussion.

(ii) The terms "non functional and insignificant" can be interpreted in a variety of ways. It is unlikely that many additives could ever be completely non-functional in a biological sense even in the smallest amounts. The intent behind the original proposal relates to technological efficacy - or lack of it in a particular food. The present wording does not adequately reflect this intent.

The alternative wording

"the additive carried over is present at a level significantly less than that normally required to achieve an efficient technological function in its own right in the food"

..... version (a),

better expresses the meaning intended.

The phrase "significantly less" is itself difficult to interpret generally and if the decision as to the point of application of this phrase in a particular standard is left to the commodity committee, some of the value of a generally applicable "principle" is lost until such time as the Commodity Standard is elaborated.

A wording including an interpretation of what was "significantly less" would avoid this difficulty.

The alternative wording

"the additive carried over is present at a level of not more than x% of that normally required to achieve an efficient technological function in its own right in the food"

..... version (b)

illustrates this.

It would be extremely useful if a figure for "x" could be agreed that was generally applicable in every case, or in most cases, and it would incidently help enforcement authorities in their work.

However it seems unlikely that one figures could be found applicable to every food and every additive. It is evident therefore that it would be the commodity committee, in conjunction with the Codex Committee on Food Additives, which would have to take the responsibility for the determination of "x" in specific cases.

Under these circumstances the alternative version (a) is the more appropriate for the Codex Alimentarius and this has been suggested in the Commission proposal.

Conversely, the commodity committee has, as a result of the proposal, a responsibility to ensure that the carryover of an additive not fulfilling the criteria of paragraph 2 should be provided for in the particular Standard (as has already been done for instance in respect of sulphur dioxide in jam) and also to indicate the exceptional circumstances under which the committee might be applying the "carryover principle" even though the carryover does not comply with the criteria in paragraph 2.

For this reason a new paragraph has been suggested. (paragraph 3 of the Commission proposal)

Paragraph 3

It appears that the intention of this paragraph is to limit the amount of an additive for which provision is made in a Standard to the limit laid down.

Thus the carryover of an additive from an ingredient to the food in which a limit is laid down for that additive is only possible when the sum of the amounts of the additive carried over and added is less than or equal to the limit provided.

.....

Under these circumstances the phrase "where necessary" can be deleted.
(paragraph 5 of the Commission proposal)

Carry-over principle

1. For the purpose of Codex Alimentarius, the "Carry-over" principle applies to the presence of additives in food as a result of the use of raw materials or other ingredients in which these additives were used, and is not concerned with the labelling of such food. The presence of contaminants is not covered by this principle.
2. The presence of an additive in food through the application of the carry-over principle is admissible in general and the principle should be understood as applying in all Codex Standards, unless otherwise specifically stated in such standards, if:
 - a. the additive is permitted in the raw material or other ingredient, (including additives) by an applicable Codex standard or under any acceptable standard or other legal specification which takes into account the hygienic requirements of food additives;
 - b. the amount of the additive in the raw material or other ingredient (including additives) does not exceed the maximum amount so permitted;
 - c. the food into which the additive is carried over does not contain the additive in a quantity greater than that introduced under conditions of good technological/manufacturing practice by the use of the ingredient; and
 - d. the additive carried over or its breakdown products is present at a level significantly less than that normally required to achieve an efficient technological function in its own right in the food.
3. An additive "carried-over" into food in a significant quantity or in an amount having a technological function in that food as a result of the use of raw materials or other ingredients in which this additive was used shall be treated and considered as an additive to that food unless the responsible commodity committee, in conjunction with the Codex Committee on Food Additives provides otherwise.

4. The appropriate commodity committee in conjunction with the Codex Committee on Food Additives shall decide if the carryover principle is not to apply, and must state this specifically in the Standard.
5. The appropriate commodity committee, in conjunction with the Codex Committee on Food Additives, shall establish over-all limits on additives when used as an ingredient and carried over into a food.