SUMMARY REPORT OF THE
STANDING COMMITTEE ON THE FOOD CHAIN AND ANIMAL HEALTH
HELD IN BRUSSELS ON 04 FEBRUARY 2013
(Section General Food Law)

Chairmen:

Mr Basil Mathioudakis (for Items A1, A2, B1, B2, B3, C1 and M1)

Mrs Chantal Bruetschy (for Item A3)

All Member States were present except Bulgaria (represented by Belgium).


On 28 December 2012, the French authorities notified under the procedure of Article 19 of Directive 2000/13/EC and of Article 12 of Regulation (EC) No 1925/2006 a draft Decree laying down the list of plants, other than mushrooms, authorised in food supplements and their conditions of use.

The French delegation presented the draft measure that provides inter alia for a positive list of plants and plant preparations which are allowed to be used in food supplements, and establishes conditions of use such as the maximum permitted level of certain metabolites and warning statements for some of them.

The French delegation explained that the main objective of the draft Decree is to list those plants and plant preparations contained in food supplements which have been authorised following applications for authorisation by operators or through a simplified procedure of mutual recognition. The draft Decree also aims to ensure high quality products are placed on the market by requiring a food business operator to submit, during the control procedures by the competent authorities, information on the quality of the product as provided in Annex II of the draft Decree.

During the exchange of views, some delegations sought clarifications concerning the authorisation procedure for a food business operator to follow so as to include substances in the positive list. Clarification was also sought on whether the draft measure could interact with other legislation such as that for medicinal products. Furthermore, the Commission asked for further clarification on the justifications for the warning statements required for certain plants.
In reply to these comments, the French delegation explained that the list may be updated regularly on the basis of applications for authorisation presented by operators according to the procedure laid down in the French Decree No 2006-352 on food supplements or on the basis of the mutual recognition clause. The French delegation explained that established case law on the classification of a product as a medicinal or a food shall be taken into account when permitting a product to be placed on the market as a food supplement. Finally, the French authorities clarified that the warning statements required for specific groups of the population mainly come from the existing provisions of other Member States and some of them result from different tests and evaluations carried out at national and/or European level.

Some Member States took the opportunity to underline the need to harmonise the lists of plants and plant preparations which can be used in food supplements. The Commission took note of the delegations' comments and explained that the Commission is still reflecting internally on the feasibility of harmonised rules for plants and their preparations used in food in the discussions on health claims on these substances.

In accordance with the procedure laid down in Article 19 of Directive 2000/13/EC and of Article 12 of Regulation (EC) No 1925/2006, the Commission will express its opinion regarding this notification taking into consideration this exchange of views.

A.2 Exchange of views of the Committee on a Greek notification of a draft Ministerial Decision entitled “Rules relating to distribution/trade in products and provision of services” (2012/581/GR).

On 15 October 2012, the Greek authorities notified under the procedure of Article 19 of Directive 2000/13/EC a draft Ministerial Decision entitled "Rules relating to distribution/trade in products and provision of services".

The Greek delegation presented the notified draft and briefly explained the reasons supporting additional labelling requirements. It has been also clarified that the draft Regulation intends to update, unify and simplify the existing national legal framework in the field in question. Finally, as to the detailed justifications of the notified measures, the Greek authorities informed the Committee that an official letter has been recently addressed to the Commission on this subject.

The Commission recalled that only the provisions related to the additional labelling requirements will be assessed under the notification procedure of Directive 2000/13/EC. Other provisions are to be evaluated under Directive 98/34/EC. In this regard, it was brought to the attention of the Member States that the Commission submitted already its official statements on the notified measures to the TRIS system.

In accordance with the procedure laid down in Article 19 of Directive 2000/13/EC, the Commission will express its opinion regarding this notification taking into consideration all expressed comments and positions.
A.3 Exchange of views of the Committee on Guidance to demonstrate 'Substantial Equivalence' for the purposes of the 'simplified procedure' of the Novel Food Regulation (Article 5 of Regulation (EC) Nr. 258/97).

In general, operators who wish to notify a novel food under the simplified procedure foreseen in the Novel Food Regulation (Regulation (EC) No 258/97) need a Member State’s opinion confirming the “Substantial Equivalence” between the new product and a food already on the market. The experiences gained by Member States, when dealing with requests from industry for such opinions can be useful for operators to assemble the necessary information/data and structure their requests concerning the “Substantial Equivalence” of the new product.

Therefore the Committee agreed, with some editorial changes, to ask the Commission to publish the ‘Summary of the experience of Novel Food Competent Authorities with the range of products that have been assessed under the simplified procedure (Article 5 of Regulation (EC) No 258/97)’ on the Novel Food website of DG SANCO.

B.1 Exchange of views and possible opinion of the Committee on a draft Commission Regulation amending Regulation (EU) No 432/2012 establishing a list of permitted health claims made on foods other than those referring to the reduction of disease risk and to children's development and health.

The draft Commission Regulation aims at amending Regulation (EU) No 432/2012 establishing the list of permitted Article 13(1) health claims by including new health claims in the Annex of permitted health claims.

Following the discussions at the previous meeting of the Committee, the draft measure submitted to the Committee was modified to take into account comments from the Member States of both editorial and substantial nature. The Commission presented the draft and informed Member States that EFSA is at the moment considering the request for further scientific advice in relation to the safety of caffeine intake within different target groups of the population as it was agreed during the previous Committee meeting.

A discussion took place on the health claim referring to the effects of carbohydrates on the maintenance of normal brain function. Several delegations raised concerns as to the proposed conditions of use that limited the number of foods that can bear the claim and as to the use of the claim in general, considering it confusing for the consumer in light of national dietary advice to reduce sugars consumption. Since the Commission considers that, for this specific claim, conflicting objectives need to be reconciled, further analysis will be required for setting conditions of use for that claim, given that the conditions of use proposed in the current draft did not alleviate the concerns of Member States.

Regarding the health claim on fructose, some delegations noted the effect that health claims on fructose could have on its intake and the potential risks of high fructose consumption for subgroups of the population. On the request of some Member States, it was agreed therefore that particular attention will be paid by the Commission to the evolution of fructose intakes following the authorisation of the
claim in the report on the application of Regulation (EC) No 1924/2006. If necessary, the Commission will consider whether EFSA should be requested to provide further scientific advice in relation to the use of the claim, taking into account the evolution of scientific knowledge on fructose and the evolution of fructose consumption in the EU.

The Commission presented the draft following the changes agreed during the meeting (namely, deletion of the claim on carbohydrates in the Annex, addition of a recital justifying the placing of the claim on carbohydrates 'on-hold' and relevant technical and/or editorial adjustments of the recitals) and informed the delegations of the implications of the draft measure regarding the implementation of Regulation (EC) No 1924/2006, in particular with regard to the entries (IDs) in the consolidated list that would still remain 'on hold' after its adoption. These include claims on 'botanical' substances where the reflection initiated by the Commission is still on going, claims that may be affected by the revision of the legislation on foodstuffs for particular nutritional uses, claims on caffeine and a health claim on carbohydrates.

**Vote taken:** favourable opinion by qualified majority (299 in favour, 7 against, 39 abstained)

**B.2 Exchange of views and possible opinion of the Committee on a draft Commission Regulation amending Regulation (EC) No 608/2004 concerning the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters.**

Commission Regulation (EC) No 608/2004 provides that the labelling of foods with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters shall contain, amongst others, a statement that the product is intended exclusively for people who want to lower their blood cholesterol level. The purpose of this mandatory statement is to ensure that the product reaches its target group, and therefore to avoid unnecessary consumption by non-targeted groups.

Certain health claims on food labels relating to the reduction and maintenance of blood cholesterol with respect to foods containing plant sterols and plant stanols have recently been authorised at EU level, subject to certain conditions of use. The wording of the authorised health claims in combination with the mandatory statement relating to the target group laid down in Regulation (EC) No 608/2004 could confuse and/or mislead consumers as to the effects of phytosterols and phytostanols on blood cholesterol.

The draft Commission Regulation aims at amending the mandatory statement laid down in Regulation (EC) No 608/2004 to address these concerns, while ensuring that its wording serves adequately the informative purpose for which it was originally introduced.

The Commission presented the draft and explained the reasons for this amendment. The vast majority of the Member States were in favour of the proposed amendment. Due to procedural constraints the draft Regulation was not put formally to a vote.
The Committee will formally deliver its opinion by written procedure after 9 March 2013.

Vote postponed

B.3 Exchange of views and possible opinion of the Committee on a draft Commission Implementing Decision concerning the draft Regulation on frozen products and frozen creams.

On 21 August 2012, the Slovak authorities notified a draft Regulation providing for additional labelling requirements for frozen food products and frozen creams. A negative opinion by the Commission was notified to the Slovak authorities on 20 November 2012.

The draft Commission Implementing Decision provides that the Slovak Republic shall refrain from adopting the measures requiring the mention “frozen” in the name of all frozen foods and frozen creams.

The Slovak representatives informed the Committee that they wish to postpone the vote on the above-mentioned Decision in the view of further reconsideration of the notified measures in question and their possible withdrawal. In this regard, the Slovak authorities committed to meet shortly the Commission in order to discuss the way forward.

Consequently the draft Decision was not put to the vote.

Vote postponed

C.1 Exchange of views of the Committee on a draft Commission Regulation refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health.

The draft Commission Regulation was submitted to the Standing Committee in accordance with Article 18(5) of Regulation (EC) No 1924/2006. It would refuse to authorise the use of nine health claims provided for in Article 13(5) of that Regulation.

More specifically, the applications subject to this draft measure relate to the effects of:

- Eff EXT™ and maintenance of normal joint mobility
- Krill oil and maintenance of joint comfort
- Vitis vinifera L. seeds extract and normal venous blood flow
- Vitis vinifera L. seeds extract and “Helps to decrease swollen legs”
- Cynatine® and maintenance of normal joint mobility
- OXY 280 and reduction of body weight
- Vitis vinifera L. seeds extract and “Helps to drain the body in case of water accumulation”
- A compination of Paullinia cupana Kunth (guarana) and Camellia sinensis (L.) Kuntze (green tea) extracts and reduction of body weight
• A combination of lycopene, vitamin E, lutein and selenium and “Helps to prepare and activate tanning”

The Commission presented the draft and the health claims therein and no comments were raised on the substance of the health claims.

The draft Regulation will be referred for further discussions at expert level and put to the vote of the Committee in a future meeting.

M.1 Miscellaneous

UK asked the Irish delegation to provide an update regarding the content of horse meat protein in meat products. Ireland informed the Commission of the history of events, the action taken until now and the results of such action. The Irish delegation said that work on this issue is on-going.