1. Exchange of views of the Committee on the Notification 2011/84/GR - Revision of Article 137 (Ice Creams) of the Hellenic Food and Beverages Code (Greece).

On 9 August 2011, the Greek authorities notified under the procedure of Article 19 of Directive 2000/13/EC relating to the labelling, presentation and advertising of foodstuffs the revised draft Article related to the commercialisation of ice creams.

The Greek delegation presented the draft measure that provides inter alia for labelling requirements for certain categories of ice creams. In particular, the draft Article requires that the name of certain categories of ice creams is to be accompanied by the ingredient giving them the characteristic taste (e.g., "lemon sorbet").

It has also been communicated that the notified draft foresees a clause of mutual recognition. Therefore, products lawfully manufactured or marketed in other Member States can be marketed in Greece without being labelled in accordance with the notified draft Article.

The Greek delegation explained that the main goal of the notified legal framework is to regulate the market by establishing a level playing field between competitors so as to support and promote the proper operation on the market, and to protect the interests of consumer by providing better information on the nature and composition of the foods concerned.

Member States were asked to express their views on this notification. No remarks or observations have been made.

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1 OJ L 109, 6.5.2000, p. 29
2. **Exchange of views of the Committee on the Notification 2011/242/E of the Draft Royal Decree establishing the quality standard for manufacturing and marketing vinegars (Spain).**

On 18 August 2011, the Spanish authorities notified under the procedure of Article 19 of Directive 2000/13/EC relating to the labelling, presentation and advertising of foodstuffs the above-mentioned draft Royal Decree establishing standards for manufacturing and marketing of vinegars.

The Spanish delegation explained the content and grounds of the draft text that provides, inter alia, labelling requirements for certain categories of vinegars. In particular, the draft Decree requires that the sales names of the above-mentioned foods include the name of the main raw material used in their manufacture. Spain stressed that the proposed measures are necessary in order to improve the information of consumer and avoid any risk confusion as regards the foods covered by the notified draft.

Two delegations asked for clarifications as regards the mutual recognition clause, laid down in the notified text. They observed that its wording varies from the standard one used in European Union legislation.

In order to ensure legal certainty, the Commission proposed to reduce the above-mentioned wording to the usual EU formulation of the mutual recognition clause, i.e. "the requirements contained in this Regulation shall not be applied to legally manufactured or marketed products in other Member States (…)". The Spanish delegation indicated that this amendment could be acceptable.

The Commission recalled that any amendment to the notification has to be officially reported to the Commission in order to inform its respective services and the Member States.

3. **Exchange of views of the Committee on the Notification 2011/257/FR of the Draft Decree on placing truffles and foodstuffs containing these truffles (France).**

On 27 May 2011, the French authorities notified under the procedure of Article 19 of Directive 2000/13/EC relating to the labelling, presentation and advertising of foodstuffs the draft Decree on placing truffles and products thereof on the market.

The French delegation presented the draft measure that provides, inter alia, labelling requirements for fresh truffles as well as for foods containing truffles or truffle flavourings. Furthermore, France explained the rationale for the notified measure and indicated that truffles are subject of frequent misleading practices.
During the exchange of views, two delegations expressed their reservations as regards the mutual recognition clause inserted in Article 8 of the notified draft. In this regard, it has been indicated that Article 7 specifies that it is prohibited to import, to keep with a view to sale or to distribute any truffles or foods which contain truffles that do not satisfy the provisions of the draft Decree. Therefore, the French delegation has been asked to explain the relationship between these two provisions. According to France, Article 7 is a standard statement which enables the national authorities to pursue operators which do not comply with the French legislation. However, as regards the foodstuffs coming from other Member States, the mutual recognition should prevail and apply to them.

As also other aspects than the labelling requirements have been raised during the discussion, the Commission clarified that DG SANCO will only assess provisions which fall under the notification procedure of Directive 2000/13/EC, i.e. Articles 4, 5(3), 5(4) and 5(5) of the notified draft. It has been explained that other provisions, as those related to the composition of foods concerned, will be assessed under the procedure of Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations.


The Danish representative presented the notified decree. The Keyhole label has been already notified in 2009 but is proposed now to be used on non-prepacked food in canteens and restaurants and also in recipes, keeping the same criteria. Some Member States expressed sympathy for such initiatives, some technical questions were raised and will be answered in writing by Denmark, notably on the use of the keyhole in recipes and its relation with the scope of Regulation (EC) No 1924/2006.

The Commission, in accordance with Article 23 of Regulation (EC) No 1924/2006, will adopt an opinion within six months from the date of this notification.

4A. Follow up on Exchange of views of the Committee on Sytrinol complaint by the company Innoceutics - Non compliance with Commission Regulation (EC) No 258/97 by the Dutch authorities. (discussed at the Standing Committee on the Food Chain and Animal Health – 11 July 2011 – Section on General Food Law).

Agreement was reached that Member States make an additional effort to determine the status of Sytrinol under the Novel Food Regulation. The issue will be discussed in the Working Group on Novel Foods in order to find out whether or not Sytrinol requires authorisation under the Novel Food Regulation.

The draft Regulation would add two new nutrition claims and modify the conditions of use of the claim 'reduced in [name of the nutrient]' as follows:

- **The new claim 'now contains X% less of [energy, fat, saturated fat, sodium/salt and/or sugars]'** would allow for the commercial communication of reformulation initiatives from 15% reduction and would be valid for one year. The criteria added to the conditions of use of the claim 'reduced in [name of the nutrient]' would also apply when saturated fat and/or sugars reduction is claimed.

- **The new claim 'no added salt'** would only be permitted if the natural content of sodium is low, i.e. below 0,12g sodium per 100g.

- **Additional criteria to use the claim 'reduced in [name of the nutrient]'** would be added to ensure such claims are not misleading:
  - when saturated fat reduction is claimed, the criteria ensure that saturated fat is not replaced by trans fatty acids.
  - for sugars reduction, the criteria ensure that the content in energy of the reformulated product is equal to or less than the content in energy in the original product, in order to avoid sugars substitution by fat.

The draft Regulation that had been sent to the Standing Committee included a modification to the conditions of use for the claim 'with no added sugars'. This part of the draft Regulation was withdrawn from the text and not put to the vote at this stage given the discussions in the European Parliament and the Council on the Commission proposal for a Directive amending the Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption on fruit juices.

During the exchange of views, several delegations expressed concerns in particular on the claim 'now contains X% less of [energy, fat, saturated fat, sodium/salt and/or sugars]' and its compatibility with the provisions of Article 9 of Regulation (EC) No 1924/2006 on comparative claims.

One Member States also regretted that the conditions of use of the claim 'reduced in [name of the nutrient]' were not further revised to allow the claim from a reduction of 25%, as the current conditions ask for 25% reduction for sodium/salt but 30% reduction for the other nutrients.

*Vote: Favourable opinion by qualified majority (306 in favour; 17 against, 22 abstained).*
6. Exchange of views and possible opinion of the Committee on a draft Commission Implementing Decision authorising the placing on the market of yeast beta-glucans as a novel food ingredient (Art. 7 of Regulation (EC) No 258/97). (Opinion of the Committee via the examination procedure) (Doc. SANCO/11633/2011)

Some minor editorial amendments were agreed.

*Vote: Favourable opinion by qualified majority (338 in favour, 7 absent).*


Some editorial amendments were agreed in order to emphasise that the intake of the product should not exceed 120 mg per day. The designation of the novel food ingredient shall be 'flavonoids from *Glycyrrhiza glabra*'.

*Vote: Favourable opinion by qualified majority (309 in favour, 29 abstained, 7 absent).*


The draft Commission Regulation aims at establishing implementing rules for the use of the procedure under Article 8 of Regulation (EC) No 1925/2006 to prohibit, restrict or place under Union scrutiny a substance other than a vitamin or a mineral.

The Commission pointed out that there was an error in the title of the point as appearing in the agenda for the meeting in that the legal basis provided by Regulation (EC) No 1925/2006 for adoption of these implementing rules is the examination procedure rather than the regulatory procedure with scrutiny of the European Parliament.

The Commission presented the draft measure to the Committee, recalling also that it was discussed with the national experts during the working group meetings held on 21 January 2011 and on 15 April 2011, and that stakeholders were consulted through the Advisory Group on the Food Chain and Animal and Plant Health.
During the discussion which followed, four delegations expressed the view that the definition of "a balanced and varied diet" laid down in Article 3 (4) should exclude food supplements and foods to which the relevant substance is added (fortified foods). These delegations explained that it would be problematic to obtain information on the intake of a substance from food supplements and fortified foods through current dietary intake surveys. One delegation asked for clarification on how the condition provided by Article 3 (3) would be "assessed" as stated in the provision.

The Commission clarified that the proposed definition of "a balanced and varied diet" should reflect the reality of diets nowadays. The Commission emphasised that a request by a Member State to start the procedure under Article 8 should be based on the reality of current diets and not on theoretical assumptions of dietary intakes.

Many of the delegations shared the view that there was a need to clarify the content of the request as presented in Article 4 of the draft measure. Furthermore, a delegation considered that a Member State should not be asked to provide a "risk assessment report" as laid down in Article 4 (1)(c) to demonstrate that there is a potential risk to consumers from consumption of a substance, as this would be the responsibility of the EFSA.

The Commission explained that the aim of Article 4 of the draft measure is to ensure that a request by a Member State to start the procedure under Article 8 is complete in that it contains all the information necessary to demonstrate a potential risk to consumers.

The Commission will consider the comments on the points raised during the discussion in view of submitting the draft for discussion and possible vote at the next meeting of the Committee.


The draft Commission Regulation was submitted to the Standing Committee in accordance with Article 17(1) of Regulation (EC) No 1924/2006. It would refuse the authorisation of two health claims provided for in Article 14(1)(b) of that Regulation.

One application related to the effects of beta palmitate on increased calcium absorption and the other application related to the effects of a combination of *Lactobacillus delbrueckii* subsp. *bulgaricus* strain AY/CSL (LMG P-17224) and *Streptococcus thermophilus* strain 9Y/CSL (LMG P-17225) on beneficial modulation of intestinal microflora.

The draft Regulation will be referred for further discussions at expert level and put to the vote of the Committee in a future meeting, following the consideration by EFSA of the comments of a scientific nature submitted pursuant to Article 16(6) of Regulation (EC) No 1924/2006.

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 one health claim foreseen in Article 13(5) of that Regulation.

The application subject to this draft measure was based on newly developed scientific evidence and related to the effects of collagen hydrolysate on maintenance of joint health in physically active people.

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


As provided for in Article 18(4) of Regulation (EC) No 1924/2006 Member States were consulted on a working document relating to a health claim provided for in Article 13(5) of that Regulation, which received a favourable assessment from the European Food Safety Authority (EFSA). The health claim related to the effects of L-tyrosine on the normal synthesis of dopamine.

The Commission informed the delegations that an Article 13(1) claim has received a favourable assessment from EFSA for the effects of L-tyrosine on the normal synthesis of catecholamines (including dopamine) and explained that coherence should be ensured when taking a decision on the two claims.

Some concerns regarding the wording of the claim were raised on whether the average consumer would be able to understand the beneficial effect. In addition, delegations stressed that if a claim is expected not to be understood, it should not be authorised since this would be contrary to the requirement laid down in Article 5(2) of Regulation (EC) No 1924/2006.

However, it was also noted that the claim has received a favourable assessment and that the understanding by the consumer may depend on the targeted group.

One delegation questioned the possibility to authorise health claims on amino acids present in proteins and called for conditions of use referring to the substance subject to the claim rather to the protein content of the food bearing the claim as proposed by EFSA.
Regarding the statement of EFSA that "no evidence has been provided that the protein supply in the diet of the European population is not sufficient to fulfil this function of the amino acid", delegations recalled the discussions which are ongoing in the context of Article 13(1) claims and urged the Commission not to allow use of the claim without the use of an additional statement informing the consumer that a normal diet provides the amounts necessary to achieve the claimed effect. The Commission pointed out that the Regulation does not foresee as a condition for the authorisation of claims that there is reported deficiency in Europe for the substance subject of the claim.

The comments expressed during that discussion will be taken into account by the Commission in finalising its decision while discussions on the same issue are referred to the next expert working group.


Member States have emphasised their concerns about the safety of CLA. The issue will be discussed in the Working Group in order to review the availability of new scientific information.

Any other business

Upon request by the Netherlands, Member States were informed that the Commission intends to present a draft Decision concerning the authorisation of chewing gum base Rev-7 to the SCFCAH, Section General Food Law in December for an exchange of views and possible opinion.