
The Committee adopted a favourable opinion on a draft Commission Directive establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone for the treatment of natural mineral waters and spring waters. One Member state voted against.

The chairman indicated that, in order not to delay the Directive’s entry into force, the necessary steps had already been undertaken by the Commission services to notify the proposal to the W.T.O. under the SPS and TBT instruments, which provide for notification before new regulatory measures are finalised.

2. Draft Commission Recommendation regarding a co-ordinated programme for the official control of foodstuffs for 2003

The Commission consulted the Committee on a draft Commission Recommendation regarding a co-ordinated programme for the official control of foodstuffs for 2003.

In this proposal the Member States are invited to carry out inspections and controls including, where indicated, taking samples with the aim of:

monitoring that olive oils are clearly and correctly labelled according to Community rules;

assessing the safety of certain fishery products (bacteriological safety of cooked crustaceans and molluscan shellfish and level of histamine in fish species of families Scombridae, Clupeidae, Engraulidae and Coryphaenidae).

The proposed co-ordinated control programme 2003, with some small adaptations, received the unanimous support of the Committee.

The Commission informed the Committee about the original inclusion into the co-ordinated control program of an activity relating to the conformity of tartaric acid as a food additive with the purity criteria laid down in Community legislation. The experts working group had considered on October 2002 that this item should not be maintained in the 2003
programme. The Commission reminded the Member States that, even if this item was not included in the 2003 co-ordinated control programme, it would need to be addressed in the framework of their control activities.

Concerning the element of the programme on labelling of oils from olives, the Commission, at the request of one Member State, clarified that the Regulation (EC) 1019/2002 on marketing standards for olive oils should be taken into consideration bearing in mind that certain provisions, as indicated in the Regulation itself, shall apply from 1 November 2003.

3, Exchange of views on a notification from the Netherlands (2002/312/NL) concerning margarine containing Vitamin D.

The Netherlands had notified a draft Regulation concerning compositional requirements and labelling provisions for margarine containing vitamin D under Directive 98/34 and Directive 2000/13. It was proposed that margarine containing vitamin D within specified minimum and maximum amounts should be labelled as intended only for people over 60 years of age. The justification outlined in the explanatory note of the proposal was that the specific group of the population concerned had particular nutritional requirements as far as vitamin D intake was concerned. Article 2(b) of the draft had to be studied within the framework of the notification procedure as referred to in Article 19 of Directive 2000/13/EC by the 4.11.02. Although the deadline for comments had expired, the Commission brought the draft Regulation to the Committee for an exchange of views in particular in relation to the implementation of Directive 89/398/EEC on foods for particular nutritional uses.

The Commission expressed the view that the labelling requirement to indicate that the product was intended only for people over 60 years of age made the margarine a food for particular nutritional uses. In addition, the proposed legislation would create a specific compositional standard that was not included in the Annex of framework Directive 89/398/EEC on foods for particular nutritional uses, the compositional criteria of which were stemming from an unclear scientific basis. The Commission noted that foods for particular nutritional uses for which no specific Directives are foreseen could be marketed in accordance with the procedure of Article 9 of Directive 89/398/EEC.

The Netherlands explained that, according to the advice of their Health Council, older adults can have marginal vitamin D status; hence, it had been recommended that older adults should consume food supplements or fortified foods containing vitamin D. The Netherlands noted that the poor vitamin D status in older adults was the result of reduced food intake and reduced mobility and was not a metabolic disorder, therefore they had considered the margarine as a normal food.

Some Member States shared the view of the Commission that the product should be considered as a food for particular nutritional uses. They felt that the needs of their population of older adults would need to be considered if the product was introduced onto their market.

The Netherlands will reconsider their draft Regulation on the basis of the discussion and report back to the Committee.

The Netherlands had notified a draft Decree concerning compositional requirements and labelling provisions for herbal preparations or products with herbal preparations with material wholly or partly originating from plants with ephedrine alkaloids under Directive 98/34/EC and Directive 2000/13/EC. The notified text was brought to the Committee for an exchange of views.

The Netherlands explained that ephedrine containing products had been on the Dutch market for many years and had been sold under the food legislation as well as the medicines legislation. The proposed labelling measures were intended to protect consumers as evidence suggested that ephedrine could have harmful effects following high individual intakes or after prolonged use.

Two Member States said that in their territory there was no history of use of ephedrine in foods. They expressed concern that by setting limits one would accept that ephedrine could be an ingredient of foods. The majority of the other Member states noted that in their jurisdictions ephedrine was regulated as a medicine and was not permitted in food products. The Commission shared the concerns expressed regarding the use of ephedrine in foods.

The Netherlands will consider the discussion and report back to the Committee. The procedure set out by Directive 98/34/EC is not closed. Two Member States issued detailed opinions (Article 9 (2) of Directive 98/34/EC) on the draft text, therefore the standstill period is extended until the 21-02-2003. In this framework, the Commission awaits the reaction from the Netherlands in response to the detailed opinion.

5. Exchange of views on a notification from the UK authorities under Article 19 of Directive 2000/13/EC, of national provisions concerning the name of food of certain meat products.

Several Member States asked for further clarification, as the UK project had been notified under both Directive 98/34 (OJ L 204, 21/07/98, p. 48) on the provision of information in the field of technical standards and regulations, and Article 19 of Directive 2000/13 (the labelling framework Directive, OJ L 109, 6/5/00, p. 29), on prior notification to the Commission of new regulatory measures envisaged by the Member States in the area of labelling. The deadline for observations within the scope of Directive 98/34/EC is set to expire on 27 December 2002.

The UK representative clarified that both aspects are dealt with in the same statutory instrument. It is the British authorities’ view that the technical specifications of meat-based products come under the scope of Directive 98/34 and imply full mutual recognition of other Member States products and specifications. On the other hand, the labelling requirements should apply to all products – namely, they would be indistinguishably applicable - irrespective of the country of origin, in order to create a level playing field and to prevent imports of meat-based products with a very
high content of water. The UK suggested adoption of such provisions at the Community level.

One Member State objected on principle, invoking the provisions of Article 17 of Directive 2000/13, which circumscribe the Member States regulatory powers as regards the labelling requirements laid down in Articles 3-13. A second Member State expressed reservations as to the possibility that the measures in question apply to products other than those from the UK. A third Member State suggested that the provisions should be examined in the light of Article 5(a) of Directive 2000/13 and doubted that the British proposal would be effective in bringing about more information or guaranteeing a higher quality of the meat-based products sold to consumers. A fourth Member State entered a scrutiny reserve - the national authorities were not aware of the parallel notification under Article 19 of Directive 2000/13 – and reserved the possibility of presenting observations within the procedure of Directive 98/34/EC.

The Chairman observed that the UK project represented a laudable effort to address the issue of transparency vis-à-vis consumers in areas that are not covered by Community provisions (non-harmonised domains). However, he noted that it was essential to take extra care not to create obstacles to the free circulation of goods within the single market, and that ultimately only Community legislation harmonising food denominations and labelling (“name of food” provisions) could provide transparency and, at the same time, legal certainty, without restricting the free circulation of products between the Member States.

6. Discussion concerning toxins in honey.

The discussion concentrated on the way the problem of infant botulism can be dealt with effectively, taking into account the copious information and advise contained in the opinion of the Scientific Committee on Veterinary Measures relating to Public Health on Honey and Microbiological Hazards, adopted on 19-20 June 2002.

The Dutch representative informed that, in November, a new death had been registered in the Netherlands. Most death cases seem to occur in immigrant families (this was confirmed by other delegations). The authorities are concentrating their efforts on information campaigns with the active involvement of the National Nutrition Council.

All delegations acknowledged that the problem of infant botulism from honey contamination is closely related to consumer information and this, in turn, depends on literacy and standards of living. In the light of this fact, most delegates expressed scepticism about the effectiveness of mandatory labelling.

The Chairman concluded that there seemed to be a general consensus that the current focus on information, training of health care professionals and general public awareness of the risk of infant botulism. Therefore one should not completely rule out compulsory labelling measures. The Commission will keep monitoring the problem with the Committee’s cooperation and assistance. A fresh Committee discussion would be held as
often as necessary, in keeping with the developments observed at the national level.

7. **Exchange of views relating to Commission Directive 92/1/EC, which concerns the rules for monitoring the temperature of quick-frozen foods**

   The UK, with the full support of the Committee, requested the Commission to amend the Commission Directive 92/1/EC concerning the rules for monitoring the temperature of quick frozen foods, in particular to take into account the new CEN Standards dealing with temperature monitoring equipment. The Commission noted this request and declared its intention to start work on this issue as soon as possible.