STANDING COMMITTEE ON THE FOOD CHAIN AND ANIMAL HEALTH

Section on General Food Law

Summary Record of Meeting of 2nd December 2005

Chairman: Mr Basil Mathioudakis

The order of discussion was slightly changed: item 2 was discussed first and item 8 was discussed after item 3.


The Draft Commission Directive included provisions to update the annexes of Commission Directive 2001/15/EC to include additional sources of vitamins and of a new mineral and a new category for sources of creatine to the list of nutritional substances that may be used in the manufacture of certain categories of foods for particular nutritional purposes.

All substances proposed for inclusion into the Annexes had been positively evaluated by the European Food Safety Authority (EFSA).

The Chairman explained that comments received from stakeholders and some Member States pointed to the fact that the inclusion of the specific new category “creatine” would lead to prohibition of the use of sources of creatine that were currently used but had not been proposed for inclusion in the list of substances. Therefore, the Commission would reflect on how to accommodate the inclusion in the Directive of substances that had received a favourable evaluation from the EFSA while maintaining the possibility for other sources belonging to the same category to continue to be used under the general provisions of the Directive or under national provisions which may apply in the absence of specific Community rules.

Certain Member States raised objections about the inclusion of boron in the Directive reiterating the concerns expressed in the context of the discussion under item 2 of the agenda (see item 2).

The draft measure would be revised and the Committee would consider it again at a future meeting.

The Draft Commission Directive included provisions to add new sources of vitamins and minerals to the annexes of Commission Directive 2002/46/EC following their positive evaluation from EFSA.

The Chairman reminded the Committee that during the adoption of the Directive it had been argued that the list of substances included in the proposal was too restrictive. At the time of adoption the Commission had indicated that the lists of vitamins and mineral substances could be extended on the basis of a favourable scientific evaluation of their safety and bioavailability.

Certain Member States objected to the inclusion of boron and its sources in the Annexes of Directive 2002/46/EC claiming safety concerns in the absence of the establishment of a maximum level and indicating that boron had not been established as an essential nutrient. The Chairman reminded the Committee that maximum levels had not been established at Community level for any of the substances included in the annex of the Directive and that, in any case, without prejudice to the Treaty, until there was harmonisation of maximum levels at Community level it was possible for Member States to establish such levels nationally. In addition, he explained that essentiality of a nutrient was not a criterion for its inclusion in the list of substances that was foreseen by the Directive 2002/46/EC and that the Court Judgement of 12 July 2005 concluded similarly.

Member States agreed to further reflect on this item the basis of the discussion.

The Committee would return to this point at a future meeting.


The Commission had revised the draft decision in order to reflect the discussion of the meeting on 23 June 2004. However, in the discussion, a number of Member States remained concerned about the content of transfatty acids as such in the product submitted for authorisation.

The Commission representative presented the final version of the explanatory note on the Honey directive 2001/110/EC. Comments raised by Members States in June 2005 had been taken into account in the new version of the document. It was clearly said by the Commission representative that the purpose of that note was not to modify the current legislation but only to clarify it.

The Commission took note of the request from three Member States (Hungary, Finland and Poland) to amend the Directive but indicated that it was not its intention to do so at this stage.

Certain technical amendments to the note suggested during the meeting would be taken into account. The Commission also informed Member States that the note should be properly diffused in order to inform interested parties of the Commission interpretation of the Directive.

5. **Exchange of views on regulatory status of products adapted to the nutritional needs of premature babies**

The Committee, on the request of France, considered whether products intended for premature infants should be classified as foods for particular nutritional purposes that did not belong to any of the categories listed in the Annex of Directive 89/398/EC and as such be considered as products marketed under the procedure of Article 9 of that Directive or as dietary foods for special medical purposes (FSMPs) or as infant formulae. Several Member States shared France’s opinion that products intended for premature infants who have immature digestive systems should be presented as dietary foods for special medical purposes. However, certain MS noted that in their view FSMPs must be intended for infants that have a pathology.

Attention of the Committee was drawn to a statement made by the Commission prior to the vote on the draft Directive on dietary foods for special medical purposes (Directive 1999/21/EC) that special products for premature babies were not covered by the Directive.

The Chairman underlined that the definition of dietary foods for special medical purposes indicates that they are intended for patients whose dietary management cannot be achieved only by modification of the normal diet, by other foods for particular nutritional purposes, or by a combination of the two, a very restrictive definition, adopted as such for the purpose of avoiding misuse of the concept of these products.

The Committee agreed that important issues had been raised during the discussion and that there was a need for further reflection by the
members of the Committee. The Committee would return to this issue at a future meeting.

6. Exchange of views on boundaries between the different foodstuff categories

The Committee, on the request of France, exchanged views on the distinction between foodstuffs for particular nutritional uses, normal foods and food supplements and on the interpretation and implementation of Article 1 (iii) of Directive 98/398/EEC and in particular the definition of “special physiological condition”.

The Chairman drew the attention of the Committee to the fact that foods for particular nutritional uses should be clearly distinguishable from normal foods and should be intended for special population groups having particular nutritional requirements. Therefore, Member States have the tools to identify which foods are subject to the provisions concerning foods for particular nutritional uses.

Several Member States affirmed that they often face problems in classifying foodstuffs and therefore would like to have more detailed guidance on this subject through guidelines/interpretative notes and proposed to create a specific working group.

The Chairman stressed that although some concerns of Member States were understandable, the creation of a working group on the subject would not be possible in the near future due to lack of Commission resources to allocate to such a project. However, such a possibility would be explored during 2006 on the basis of the defined priorities.


The Committee, on the request of Denmark, exchanged views on the interpretation of Article 8 (1) of Directive 2002/46/EC on food supplements and its application to multi-herbal supplements. According to Article 8 (1), the amount of substances with a nutritional or physiological effect present in the product must be declared.

Denmark pointed out that for food supplements containing herbs exerting a nutritional or physiological effect, this provision has given rise to uncertainty as to whether the amount of each individual herb must be declared. The Danish delegation expressed the view that for products containing only one herb, the amount could be declared either as the amount of dried herb per portion recommended for daily consumption, or it could be declared as the known active chemical substance per portion.
recommended for daily consumption. Concerning products containing more than one herb, Article 8 (1) of Directive 2002/46/EC requires the declaration of the amount per portion recommended for daily consumption of every single herb exerting a function in the product.

The Committee unanimously agreed with the Danish interpretation that in the light of Article 8(1) of Directive 2002/46/EC each herb with a nutritional or physiological effect present in food supplements should be declared in numerical form on the label.

8. **Exchange of views and possible approval on a Commission working document related to the classification of natural mineral waters’ treatment with manganese sands and iron-hydroxide in application of Article 4 of Directive 80/777/EC**

The Committee exchanged views on the basis of a Commission working document on how to deal with the authorisation of natural mineral water (NMW) treatments with manganese sands and iron oxides, for a temporary period until the completion of an assessment undertaken at EU level by a group of experts and by EFSA (respectively on technical and scientific aspects of these treatments) and, if necessary, a subsequent EU authorisation.

The Committee, with one Member State against and one abstention, endorsed the following conclusions:

- In the light of Article 4 of Directive 80/777/EEC, requests for authorisation of treatments with manganese sands and iron oxides should continue to be assessed and granted by national competent authorities;

- N.M.W. which will be subject to a treatment authorised at national level within this period may freely circulate in the EU on basis of the mutual recognition principle;

- However, given that this temporary solution would not imply a requirement to label these treatments, it would be appropriate that Member States notify the treatments with manganese sands and iron oxides that have been authorised at national level to the Commission;

- The situation, including the labelling requirement, will be reviewed in the light of the outcome of the work of the ad hoc working group and of the EFSA opinion.
9. **Miscellaneous**

The Belgian delegation raised the issue of French notification 2005/588/F (Warning on labels of alcoholic drinks on risks induced by alcohol consumption during pregnancy).

Some other delegations informed that they are studying a similar measure, and the Commission’s services provided the Committee with elements showing that such labelling could contribute to preventing Fœtal Alcohol Syndrome.

It was noted that the deadline for comments by Member States within the procedure of Directive 98/34/EC (Technical rules) expires on 30 January 2006.