

# Food safety, human health protection: common authorisation procedure for food additives, food enzymes and food flavourings

2006/0143(COD) - 11/03/2008 - Commission communication on Council's position

The Commission supports the common position adopted unanimously by the Council in March 2008. It is in line with the aims and the approach taken in the Commission's original proposal and reflects the principles of several amendments proposed by the European Parliament.

## **Amendments accepted by the Commission and which are in line with the common position:**

**Scope:** The common position, in line with Parliamentary suggestions made at first reading, clarifies that the proposed Regulation's scope will not include smoke flavourings, currently falling within the Regulation (EC) No 2065/2003 of the European Parliament and of the Council.

**Confidentiality:** The common position clarifies that all information related to the safety of a substance, including toxicological data, safety studies and raw data as such, should not be made confidential.

**Deadlines:** The Council has clarified that EFSA deadlines on opinions may be extended - even when applicants submit additional information on their own initiative. This, however, should be limited to exceptional circumstances only in accordance with Article 10. Again this modification is fully in line with Parliamentary amendments to that effect.

**Transparency:** In accordance with recommendations proposed by Parliament the common position modifies the initial proposal in order to strengthen provisions concerning transparency.

**Regulatory procedure with scrutiny:** The common position has modified the text in a bid to introduce the regulatory procedure with scrutiny and to align the proposed Regulation with Council Decision 2006/512/EC amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission. These changes correspond to several amendments put forward by Parliament. The common position differs in one respect however in that it includes the use of the curtailment of time periods in some cases. This aspect was not reflected in the Commission's amended proposal apart from the urgency procedure which was introduced for the cases of particular risk to human health.

## **Amendments not incorporated in the common position, which are nevertheless accepted by the Commission in the amended proposal as such or subject to rewording:**

**Environmental protection:** The EP sought to clarify that a high level of environmental protection must be guaranteed when pursuing Community policies. Given that this principle is already included in the General Food Law (Regulation (EC) No 178/2002) the Commission decided to accept it.

**Transparency:** Parliamentary amendments that strengthened transparency and information provisions have been endorsed by the Commission.

**EFSA deadlines:** An EP amendment increasing the EFSA deadline for opinions from six to nine months has also been accepted.

## **New provisions introduced by Council:**

**Commission deadlines:** The Council, contrary to Parliamentary wishes, has decided to retain a nine month Commission deadline in cases where it has to present a draft measure to update the Community list, after the EFSA opinion has been issued. For the sake of clarity, the Council has decided to introduce, in recital 9, a modification specifying that the nine months period is necessary, in some cases, for the Commission to ensure adequate consultation of stakeholders. This time-frame could be shortened depending on the nature of the draft measure. In addition, recital 10 of the common position specifies the deadline procedures. These amendments are in line with the Commission proposal and can be accepted.

**Legitimate factors:** The common position clarifies that other “legitimate factors” for deciding whether or not a substance should be included on the Community list, may include societal, economic, traditional, ethical and environmental factors and the feasibility of controls. These factors are already mentioned in the General Food Law, therefore reiterating them in the proposed Regulation reinforces the initial proposal and, as a result, can be accepted by the Commission.

Changes that improve the text from a technical point of view have also been made and are acceptable to the Commission.

To conclude, the Commission is of the view that the common position fully reflects the key elements of its initial proposal and the spirit of many of the amendments of the European Parliament made in the first reading. As a result it can accept the Council’s common position.