

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0345/2003

7 October 2003

*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position with a view to the adoption of a European Parliament and Council Directive amending Directive 94/35/EC on sweeteners for use in foodstuffs
(9714/1/2003 – C5-0299/2003 – 2002/0152(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Anne Ferreira

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
PROCEDURAL PAGE	4
DRAFT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT	9

PROCEDURAL PAGE

At the sitting of 10 April 2003, Parliament adopted its position at first reading on the proposal for a European Parliament and Council Directive amending Directive 94/35/EC on sweeteners for use in foodstuffs (COM(2002) 375 – 2002/0152 (COD)).

At the sitting of 3 July 2003 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (9714/1/2003 – C5-0299/2003).

The committee had appointed Anne Ferreira rapporteur at its meeting of 2 October 2002.

It considered the common position and draft recommendation for second reading at its meetings of 9 September and 7 October 2003.

At the last meeting it adopted the draft legislative resolution by ... votes to ..., with ... abstention(s)/unanimously.

The following were present for the vote: Caroline F. Jackson (chairman); Alexander de Roo and Guido Sacconi (vice-chairmen); Anne Ferreira (rapporteur); María del Pilar Ayuso González, Emmanouil Bakopoulos (for Mihail Papayannakis), Carmen Cerdeira Morterero (for David Robert Bowe, pursuant to Rule 153(2)), Dorette Corbey, Chris Davies, Proinsias De Rossa (for Torben Lund), Avril Doyle, Karl-Heinz Florenz, Cristina García-Orcoyen Tormo, Georges Garot (for Béatrice Patrie, pursuant to Rule 153(2)), Françoise Grossetête, Cristina Gutiérrez Cortines, Eija-Riitta Anneli Korhola, Bernd Lange, Paul A.A.J.G. Lannoye (for Hiltrud Breyer), Minerva Melpomeni Malliori, Patricia McKenna, Rosemarie Müller, Riitta Myller, Ria G.H.C. Oomen-Ruijten, Marit Paulsen, Frédérique Ries, Yvonne Sandberg-Fries, Karin Scheele, Ursula Schleicher (for John Bowis), Horst Schnellhardt, Jonas Sjöstedt, María Sornosa Martínez, Bart Staes (for Inger Schörling), Catherine Stihler, Nicole Thomas-Mauro, Antonios Trakatellis and Peder Wachtmeister.

The recommendation for second reading was tabled on 7 October 2003.

DRAFT LEGISLATIVE RESOLUTION

on the Council common position with a view to the adoption of a European Parliament and Council Directive amending Directive 94/35/EC on sweeteners for use in foodstuffs (9714/1/2003 – C5-0299/2003 – 2002/0152(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (9714/1/2003 – C5-0299/2003),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2002) 375²),
 - having regard to the Commission's amended proposal (COM(2003) 277³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0345/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ Texts adopted for 10.4.2003, P5_TA(2003)0183.

² OJ C 262 E, 29.10.2002, pp. 429-438.

³ OJ not yet published.

Amendment 1
ARTICLE 1, PARAGRAPH 1
Article 4 (Directive 94/35/EC)

1) Article 4 shall be replaced by the following:
"Article 4
It may be decided in accordance with the procedure laid down in Article 7:
– where there are differences of opinion as to whether sweeteners can be used in a given foodstuff under the terms of this Directive, whether that foodstuff is to be considered as belonging to one of the categories listed in the third column of the Annex,
– whether a food additive listed in the Annex and authorised at "quantum satis" is used in accordance with the criteria referred to in Article 2 **and**
– ***whether a substance is a sweetener within the meaning of Article 1(2).***"

1) Article 4 shall be replaced by the following:
"Article 4
It may be decided in accordance with the procedure laid down in Article 7:
– where there are differences of opinion as to whether sweeteners can be used in a given foodstuff under the terms of this Directive, whether that foodstuff is to be considered as belonging to one of the categories listed in the third column of the Annex **and**
– whether a food additive listed in the Annex and authorised at "quantum satis" is used in accordance with the criteria referred to in Article 2."

Justification

This is a retableting of Amendment 3 (which was adopted at first reading), modified in order to take the common position into account. The rapporteur does not see why the Commission should have responsibility for deciding whether or not a substance is a sweetener until such time as Framework Directive 89/107/EEC on food additives is revised, and she can only reiterate the view which she expressed at first reading: namely, that the Commission's powers in this area may be extended only when the framework legislation is revised (as, according to the Commission, it will be in the course of this year).

Amendment 2
Article 1b (new)

Article 1b

Within two years of the entry into force of this directive, the Commission shall submit

a report to the European Parliament and the Council outlining the progress made in the re-evaluations of additives under way and setting out a provisional calendar for future re-evaluations, especially those for salt of aspartame-acesulfame and sucralose. These re-evaluations shall be carried out on the basis of consumer data supplied by the Member States and shall take account of the effects of additives on vulnerable population groups.

Justification

Although the Commission has appended to the Council common position a statement in which it undertakes to consider the two new sweeteners within four years of the date when the revised legislation comes into effect, the rapporteur prefers to have the above provision incorporated into Community law.

Amendment 3

Article 2, first paragraph, second indent

– prohibit trade in and use of products not conforming with this Directive by ******at the latest; however, products placed on the market ***or labelled*** before that date which do not comply with this Directive may be marketed until ***stocks are exhausted***.

** 18 months after the entry into force of this Directive.

– prohibit trade in and use of products not conforming with this Directive by ******at the latest; however, products placed on the market before that date which do not comply with this Directive may be marketed until *******

** 18 months after the entry into force of this Directive.

***** 24 months after the entry into force of this Directive.**

Justification

The ban on marketing concerns non-compliant products following the revision of the

directive. In the interests of consumer protection, your rapporteur considers that the ban on marketing non-compliant products should apply not from when stocks are exhausted but, rather, from when a reasonable period has elapsed since the date of the marketing ban.

EXPLANATORY STATEMENT

The Council common position incorporates various proposals adopted by Parliament at first reading.

However, the rapporteur is not satisfied with some of the provisions proposed by the Council which fail to take into account a decision that was adopted in plenary by a significant majority.

She cannot accept that the Commission should be granted the power to decide whether or not a substance counts as a sweetener without following Parliament's authorisation procedure. In that connection, she can only reiterate the view which she expressed at first reading: namely, that the Council and Commission proposal is not justified and that the stated grounds (to speed up the procedure for authorising any new sweetener) are not admissible, since the Commission took two years to submit its proposal for a revision of the legislation relating to sweeteners. The rapporteur considers that the decision regarding the granting of this extra power to the Commission must – and can only – be taken when the framework legislation on food additives is revised (something which the Commission has announced for this year).

Furthermore, the rapporteur cannot accept that sweeteners which do not comply with the revised Community legislation may still be marketed and used until stocks are exhausted if this process exceeds the time limit proposed in Amendment 2 of this recommendation. Setting such a time limit will enable some (or even all) of the products concerned to be sold, and the rapporteur regards this as sufficient. The purpose of a ban is to safeguard consumers and their health, yet the common position's derogation relating to the exhaustion of stocks runs counter to that objective, which is laid down in the Community Treaties.