

# EUROPEAN PARLIAMENT

2004



2009

---

*Session document*

**A6-0180/2008**

13.5.2008

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a regulation of the European Parliament and of the Council on food additives  
(16675/2/2007 – C6-0141/2008 – 2006/0145(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Åsa Westlund

### ***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***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. 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). Suggested corrections of this kind are subject to the agreement of the departments concerned.

## CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	18
PROCEDURE.....	19



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a regulation of the European Parliament and of the Council on food additives  
(16675/2/2007 – C6-0141/2008 – 2006/0145(COD))

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (16675/2/2007 – C6-0141/2008),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2006)0428),
  - having regard to the amended Commission proposal (COM(2007)0673),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 62 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0180/2008),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and Commission.

### Amendment 1

#### Council common position

##### Recital 3

#### *Council common position*

(3) This Regulation replaces previous Directives and Decisions concerning food additives permitted for use in foods with a view to ensuring the effective functioning of the internal market and a high level of **protection of** human health and **the interests of consumers** via comprehensive and streamlined procedures.

#### *Amendment*

(3) This Regulation replaces previous Directives and Decisions concerning food additives permitted for use in foods with a view to ensuring the effective functioning of the internal market and a high level of human health and **consumer protection, including those consumers who are intolerant to certain substances**, via comprehensive and streamlined procedures.

---

<sup>1</sup> Texts adopted, P6\_TA(2007)0321, 10.7.2007.

## *Justification*

*Reinstatement of amendment 1 from EP first reading.*

### **Amendment 2**

#### **Council common position**

##### **Recital 7**

#### *Council common position*

(7) Food additives should be approved and used only if they fulfil the criteria laid down in this Regulation. Food additives must be safe when used, there must be a technological need for their use, and their use must not mislead the consumer and must be of benefit to the consumer. Misleading the consumer includes, but is not limited to, issues related to the nature, freshness, quality of ingredients used, the naturalness of the product or of the production process, or the nutritional quality of the product. The approval of food additives should also take into account other factors relevant to the matter under consideration including societal, economic, traditional, ethical and environmental factors and the feasibility of controls. The use and maximum levels of a food additive should take into account the intake of the food additive from other sources and the exposure to the food additive by special groups of consumers (e.g. allergic consumers).

#### *Amendment*

(7) Food additives should be approved and used only if they fulfil the criteria laid down in this Regulation. Food additives must be safe when used, there must be a technological need for their use, and their use must not mislead the consumer and must be of benefit to the consumer. Misleading the consumer includes, but is not limited to, issues related to the nature, freshness, quality of ingredients used, the naturalness of the product or of the production process, or the nutritional quality of the product, ***including its fruit and vegetable content***. The approval of food additives should also take into account other factors relevant to the matter under consideration including societal, economic, traditional, ethical and environmental factors and the feasibility of controls. The use and maximum levels of a food additive should take into account the intake of the food additive from other sources and the exposure to the food additive by special groups of consumers (e.g. allergic consumers).

## *Justification*

*Reinstatement of amendment 3 from first reading.*

### **Amendment 3**

**Council common position**  
**Recital 13**

*Council common position*

(13) A food additive already approved under this Regulation which is prepared by production methods or using starting materials significantly different from those included in the risk assessment of the Authority, or different from those covered by the specifications laid down, should be submitted for evaluation by the Authority. "Significantly different" could mean *inter alia* a change of the production method from extraction from a plant to production by fermentation using a micro-organism or a genetic modification of the original micro-organism, a change in starting materials, or a change in particle size.

*Amendment*

(13) A food additive already approved under this Regulation which is prepared by production methods or using starting materials significantly different from those included in the risk assessment of the Authority, or different from those covered by the specifications laid down, should be submitted for evaluation by the Authority. "Significantly different" could mean *inter alia* a change of the production method from extraction from a plant to production by fermentation using a micro-organism or a genetic modification of the original micro-organism, a change in starting materials, or a change in particle size, ***for example through nanotechnology.***

*Justification*

*Aims to facilitate a compromise with the council on nanotechnology.*

**Amendment 4**

**Council common position**  
**Recital 14**

*Council common position*

(14) Food additives should be kept under continuous observation and should be re-evaluated whenever necessary in the light of changing conditions of use and new scientific information.

*Amendment*

(14) Food additives should be kept under continuous observation and must be re-evaluated whenever necessary in the light of changing conditions of use and new scientific information. ***If there is evidence that a specific additive may cause undesirable side-effects (for example azo-dyes), the Commission, in consultation with the Member States, should take immediate action to ban such a substance.***

*Justification*

*New amendment tabled as new scientific information from Southampton University and the*

*EFSA regarding the health risks for children with azo-dyes has emerged after EP first reading.*

## **Amendment 5**

### **Council common position**

#### **Article 2 – paragraph 2 – point b**

##### *Council common position*

(b) substances used for the protection of plants and plant products in accordance with Community rules relating to plant health;

##### *Amendment*

(b) substances used for the protection of plants and plant products in accordance with Community rules relating to plant health, ***with the exception of post-harvest plant protection products used as preserving agents;***

##### *Justification*

*Amendment agreed by Parliament at first reading (amendment 10). Post-harvest pesticides like Methylcyclopropene (1-MCP) used for conserving fruit and vegetables (mainly apples) shall fall within the scope of this regulation.*

## **Amendment 6**

### **Council common position**

#### **Article 2 – paragraph 3**

##### *Council common position*

3. This Regulation shall not apply to food enzymes falling within the scope of Regulation (EC) No .../...

##### *Amendment*

3. This Regulation shall not apply to food enzymes falling within the scope of Regulation (EC) No...../...***with effect from the date of application of the Community list of food enzymes in accordance with Article 17 of that Regulation.***

##### *Justification*

*This amendment takes account of a fact that was unknown at the point of the report's first reading. It is legally necessary to prevent a temporary lowering of controls on currently unauthorised enzymes which have an additive function. Without this amendment such enzymes will not require authorisation until adoption of the Community list of enzymes.*



## Amendment 7

### Council common position

#### Article 6 – paragraph 1 – introductory part

##### *Council common position*

1. A food additive may be included in the Community lists in Annexes II and III only if it meets the following conditions and, where relevant, other legitimate factors:

##### *Amendment*

1. A food additive may be included in the Community lists in Annexes II and III only if it meets the following conditions and, where relevant, other legitimate factors, ***including environmental factors:***

##### *Justification*

*Aims to facilitate a compromise with the council.*

## Amendment 8

### Council common position

#### Article 6 – paragraph 1– point (b)

##### *Council common position*

(b) there is reasonable technological need that cannot be achieved by other economically and technologically practicable means; and

##### *Amendment*

(b) there is reasonable technological need, ***in terms of benefits to the consumer,*** that cannot be achieved by other economically and technologically practicable means; and

##### *Justification*

*Repeating text from recital 7 in the Council common position.*

## Amendment 9

### Council common position

#### Article 8 – point (b)

##### *Council common position*

(b) making food more visually appealing ***and helping to identify flavours normally associated with particular foods;***

##### *Amendment*

(b) making food more visually appealing;

*Justification*

*Reinstatement of the Commission proposal.*

**Amendment 10**

**Council common position**  
**Article 8 – paragraph 1 a (new)**

*Council common position*

*Amendment*

***There must, however, be no risk of the additive misleading the consumer into believing that the food contains ingredients other than those actually present.***

*Justification*

*Reinstatement of amendment 30 from EP first reading.*

**Amendment 11**

**Council common position**  
**Article 11 a (new)**

*Council common position*

*Amendment*

***Article 11a***

***Changes in the production process or starting materials of a food additive already included in a Community list***

***When a food additive is already included in a Community list and there is a significant change in the production methods or the starting materials, or a change in particle size, for example through nanotechnology, the food additive prepared by those new methods or materials shall be considered as a different additive, and a new entry in the***

***Community lists or change in the specifications shall be required before it can be placed on the market.***

*Justification*

*Aim to facilitate a compromise with the council on nanotechnology.*

**Amendment 12**

**Council common position  
Article 12**

*Council common position*

A food additive falling within the scope of Regulation (EC) No 1829/2003 may be included in ***the Community lists in Annexes II and III*** in accordance with this Regulation only ***when*** it is covered by an authorisation in accordance with Regulation (EC) No 1829/2003.

*Amendment*

A food additive falling within the scope of Regulation (EC) No 1829/2003 ***and not already included in the Community lists in Annexes II and III to this Regulation*** may be included in ***those*** lists in accordance with this Regulation only ***if*** it is covered by an authorisation in accordance with ***Article 7 of*** Regulation (EC) No 1829/2003.

*Justification*

*Reintroduces amendment 63 from the first reading. Any GM product used for the production of additives already approved and included in the list of approved additives must also be approved in accordance with Regulation 1829/2003.*

**Amendment 13**

**Council common position  
Article 22 – paragraph 3 a (new)**

*Council common position*

*Amendment*

***3a. The labelling of food additives containing azo-dyes shall display the warning "azo-dyes may provoke allergenic effects and hyperactivity in children".***

### *Justification*

*New amendment on labelling since studies from Southampton University and also the EFSA have shown risks for children's health when they are exposed to azo-dyes.*

## EXPLANATORY STATEMENT

The draft regulation on food additives is part of the Food Improvement Agents Package (FIA) which was proposed by the Commission in July 2006. It includes a proposal for a Common Authorisation Procedure for food additives, food enzymes and food flavourings, a regulation on food additives, a regulation on food enzymes and a regulation on food flavourings. The aim is to harmonise, clarify and update current rules in this area.

The adoption of the European Parliament's first reading took place during the plenary session on 10 July 2007. The Council's common position was adopted on 10 March 2008.

At first reading Parliament supported the rapporteur in striving for greater transparency in the process of approving food additives, as well as strengthening consumer protection and, in particular, the protection of those consumers who are intolerant to certain substances.

The Parliament also supported the rapporteur in ensuring that environmental protection is one of several factors to be taken into consideration when giving approval to the use of an additive.

On the whole, the rapporteur is satisfied with the Council common position. Of the 59 amendments adopted by the Parliament at its first reading, 24 amendments were adopted in full and two were partly adopted. In particular, she is pleased to see that the Council has taken on board the idea of clarifying what misleading the consumer entails as well as including environmental protection as a factor to be taken into consideration when approving the use of an additive.

The amendments tabled for the second reading, aim at strengthening those very same elements in the text; further strengthening consumer and environmental protection as well as clarifying the conditions for approval of additives.

## PROCEDURE

<b>Title</b>	Food additives
<b>References</b>	16675/2/2007 – C6-0141/2008 – 2006/0145(COD)
<b>Date of Parliament's first reading – P number</b>	10.7.2007                      T6-0321/2007
<b>Commission proposal</b>	COM(2006)0428 - C6-0260/2006
<b>Amended Commission proposal</b>	COM(2007)0673
<b>Date receipt of common position announced in plenary</b>	13.3.2008
<b>Committee responsible</b> Date announced in plenary	ENVI 13.3.2008
<b>Rapporteur(s)</b> Date appointed	Åsa Westlund 14.9.2006
<b>Discussed in committee</b>	3.4.2008
<b>Date adopted</b>	6.5.2008
<b>Result of final vote</b>	+:                      49 –:                      0 0:                      0
<b>Members present for the final vote</b>	Georgs Andrejevs, Irena Belohorská, John Bowis, Frieda Brepoels, Hiltrud Breyer, Dorette Corbey, Magor Imre Csibi, Chris Davies, Avril Doyle, Mojca Drčar Murko, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Matthias Groote, Françoise Grossetête, Satu Hassi, Jens Holm, Caroline Jackson, Christa Klač, Eija-Riitta Korhola, Holger Krahmer, Urszula Krupa, Aldis Kušķis, Marie-Noëlle Lienemann, Jules Maaten, Linda McAvan, Riitta Myller, Péter Olajos, Miroslav Ouzký, Vladko Todorov Panayotov, Vittorio Prodi, Frédérique Ries, Dagmar Roth-Behrendt, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Kathy Sinnott, Bogusław Sonik, María Sornosa Martínez, Antonios Trakatellis, Thomas Ulmer, Åsa Westlund, Anders Wijkman, Glenis Willmott
<b>Substitute(s) present for the final vote</b>	Anne Laperrouze, Kartika Tamara Liotard, Miroslav Mikolášik, Alojz Peterle, Lambert van Nistelrooij