DRAFT RECOMMENDATION FOR SECOND READING


Committee on the Environment, Public Health and Food Safety

Rapporteur: Frédérique Ries
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in **bold italics**. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Ordinary legislative procedure: second reading)

The European Parliament,

– having regard to the Council position at first reading (00000/2013 – C7-0000/2013),
– having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the Italian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
– having regard to the opinion of the European Economic and Social Committee of 26 October 20111,
– having regard to the Communication from the Commission to the European Parliament pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council at first reading (COM(2013)0241),
– having regard to its position at first reading2 on the Commission proposal to Parliament and the Council (COM(2011)0353),
– having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
– having regard to Rule 72 of its Rules of Procedure,
– having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A7-0000/2013),

1. Approves the Council position at first reading;

2. Takes note of the Commission statement annexed to this resolution;

3. Notes that the act is adopted in accordance with the Council position;

4. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;

5. Instructs its Secretary-General to sign the act, once it has been verified that all the

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procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the Official Journal of the European Union;

6. Instructs its President to forward its position to the Council, the Commission and the national parliaments.
ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the Commission on pesticides

In implementing Article 11(1)(b), the Commission will pay particular attention to pesticides containing active substances, safeners or synergists classified in accordance with Regulation (EC) No 1272/2008 as mutagen category 1A or 1B, carcinogen category 1A or 1B, toxic for reproduction category 1A or 1B, or considered to have endocrine disrupting properties that may cause adverse effects in humans, or which are very toxic, or which cause critical effects such as developmental neurotoxic or immunotoxic effects, with the objective to ultimately avoid their use.
EXPLANATORY STATEMENT

Following the adoption of Parliament's first reading position by the plenary on 14 June 2012, informal negotiations started with the Cyprus Presidency with view to reaching an early second reading agreement. After three rounds of trilogue, Parliament's and Council's negotiating team reached agreement on the file on 14 November 2012. The text of the agreement was presented to the ENVI Committee for a vote of approval on 18 December 2012, and approved by an overwhelming majority. On the basis of the committee's approval, the Chairman of the Committee undertook in his letter of the same day to the chair of Coreper to recommend to the plenary to approve Council's position at first reading without amendment. Following legal-linguistic verification, Council adopted its first reading position confirming the agreement on 22 April 2013.

As Council's first reading position is in conformity with the agreement reached in the trilogues, your Rapporteur recommends to the Committee to accept it without further amendments. Your Rapporteur would like to highlight in particular the following elements of the compromise:

- **Gluten**

Pursuant to the agreement, food for people intolerant to gluten is not included into the scope of the regulation. Statements that food is gluten-free or has low gluten content will be regulated under the regulation on Food information to consumers (Regulation (EU) No 1169/2011; FIC). It will require a two-step procedure: first, a delegated act pursuant to Article 36(4) of FIC to broaden the scope of voluntary food information by including the absence or reduced presence of gluten; then an implementing act pursuant to Article 36(4) of FIC to regulate the details. The compromise text on the relevant recital ensures that the future implementing act would maintain at least the same level of protection which food for people intolerant to gluten enjoy today.

- **Lactose**

Statements on the absence or reduced presence of lactose will be regulated under FIC in the same two-step procedure as set out above for gluten. The compromise text on the corresponding recital ensures that the new rules would be drawn up by taking into account the EFSA opinion of 10 September 2010 on lactose thresholds.

- **Sportsfood**

Food intended for sportsmen is not included into the scope of the regulation. The Commission, after consulting EFSA, will draw up a report on the necessity of special provisions for that type of food; the report may be accompanied by a legislative proposal.

- **Food for total diet replacement for weight control**
Food for total diet replacement for weight control is included into the scope. The compromise text ensures that in order to avoid the abuse of rules and false marketing practices by food business operators, only those foods which are replacing the whole diet are included into the scope; diet snack bars and similar products do not fall within the remit of this regulation. Calorie values are referred to in the recital. The details will be set out by delegated act.

- **Formula for pre-term and low birth weight infants**

No special (sub) category is created for formula for pre-term and low birth weight infants; it is a case-by-case decision, based upon the medical condition of the infant, to decide whether he should be fed on medicated formula. Such medicated formula falls under the category of food for special medical purposes. However, the compromise recognises the need to adopt specific requirements for the food for special medical purposes developed to satisfy the nutritional needs of infants. Furthermore the text ensures that requirements such as pesticides residues, labelling, presentation, advertising, promotional and commercial practices for infant formula which should also apply to formula for pre-term and low-birth-weight infants, will be reviewed.

- **Milk-based drinks for young children**

The Commission, after consulting EFSA, will draw up a report on the necessity of special provisions for milk-based drinks and similar drinks for young children. The report shall consider, among others, the nutritional needs of young children, the composition of such drinks, and whether those drinks have any nutritional benefits. The report may be accompanied by a legislative proposal.

- **SMEs’ access to the market**

Commission may adopt technical guidance to facilitate food business operators, in particular SMEs, to comply with provisions concerning compositional and information requirements and the Union list of substances.

- **Engineered nanomaterials**

The compromise accommodates Parliament’s demand for referring to the definition of engineered nanomaterials as set out in FIC, as well as for requesting scientific evidence based on adequate test methods for engineered nanomaterials to demonstrate that the substance complies with the inclusion criteria. Substances falling under the scope of the regulation on novel food and novel food ingredients (Regulation (EC) No 258/97) may be added to special food only if they comply with the conditions of both the Novel food regulation and the present regulation.

- **Labelling of infant and follow-on formula**

Labelling, presentation and advertising of infant formula shall not include pictures or text which might idealise the use of the product. With regard to follow-on formula, the prohibition relates to labelling only. Due to constitutional concerns voiced by some Member States over
those restrictions, a recital is included into the text to clarify that the provisions of the regulation do not affect fundamental rights and the freedom of expression.

- **Dissemination of information to consumers and business**

Guarantees are built in to protect consumers from misleading information included in or expressed on the labelling, presentation and advertisement of food; dissemination of information by food business operators to healthcare professionals is allowed.

- **Pesticides**

The text in the recitals calls for setting maximum residue levels at the lowest achievable level, taking into account good agricultural practices and other sources of exposure; and for establishing limitations or bans of certain pesticides contained in the current secondary measures should be taken into account in the future delegated acts. Further provisions are included into the articles to ensure that requirements such as pesticides residues, labelling, presentation, advertising, promotional and commercial practices for infant formula will be reviewed. As a further guarantee, the Commission made a statement on the limitation of use and ban of certain pesticides, with particular attention to pesticides approved as candidates for substitution under the Plant protection products regulation.

- **List of substances which may be added to the food (Union list)**

During the negotiations Parliament achieved that the list of substances which might be added to the food would be included into the basic act as an annex, and would be updated in the future by delegated acts. The three lists of substances existing today have been merged into a single list to preserve the status quo. Furthermore, the compromise accommodates Parliament’s request that the list specifies which categories of substances might be added to which category of food; and that not all substances may be added to all categories of food.