II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation laying down Community procedures for contaminants in food

(92/C 57/12)

COM(91) 523 final — SYN 379

(Submitted by the Commission on 17 February 1992)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100A thereof,

Having regard to the proposal from the Commission, and in cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the differences in rules adopted by the Member States may hinder the functioning of the common market and whereas it is necessary to lay down a procedure for the adoption of harmonized Community rules;

Whereas contaminants may enter into food at any stage from production to consumption;

Whereas it is essential, in the interest of public health protection, to keep these contaminants at levels which are toxicologically acceptable;

Whereas further restrictions should be observed whenever they are achievable through good professional practices; whereas the compliance with such good practices can be efficiently controlled by public authorities, given the professional training and experience of their agents;

Whereas this Regulation should apply without prejudice to the provisions adopted in the context of more specific Community rules;

Whereas Member States are required to notify draft technical standards and regulations in foodstuffs to the Commission, including those on contaminants, through Council Directive 83/189/EEC [1], as last amended by Directive 88/182/EEC [2], and whereas the notification procedure in that Directive shall continue to apply to foodstuffs;

Whereas the Scientific Committee for Food shall be consulted on all questions which may have an effect on public health,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the procedure for establishing rules on contaminants in foodstuffs.

2. This Regulation shall apply without prejudice to the provisions adopted in the context of more specific Community rules.

Article 2

For the purposes of this Regulation 'contaminant' means any substance not intentionally added to food, which is present in such food as a result of the production, manufacture, processing, preparation, treatment, packing, packaging, transport or storage of such food or as a result of environmental contamination.

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[1] OJ No L 109, 26. 4. 1983, p. 8.

[2] OJ No L 81, 26. 3. 1988, p. 75.

Article 3

1. No foodstuff shall be marketed if it contains a contaminant in an amount which is toxicologically unacceptable.

2. Furthermore, contaminants shall be kept at levels which are as low as reasonably achievable through good practices during all stages mentioned in Article 2.

3. Where necessary to implement paragraph 1, maximum tolerances for specific contaminants shall be established in accordance with the procedure laid down in Article 8.

These tolerances shall be adopted in the form of a non-exhaustive Community list and may include:

— different limits for the same contaminant in different foodstuffs,

— analytical detection limits,

— a reference to the method of sampling and analysis to be applied.

Article 4

In derogation of Article 10 of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations, as last amended by Directive 88/182/EEC, notification of draft technical standards and regulations on contaminants shall continue to be made using the procedure of Articles 8 and 9 of that Directive.

Article 5

Provisions that may have an effect upon public health shall be adopted after consultation with the Scientific Committee for Food.

Article 6

1. Where a Member State, as a result of new information or of a re-assessment of existing information, has detailed grounds for considering that a contaminant in food, although complying with this Regulation or specific Regulations adopted pursuant to this Regulation, endangers human health, that Member State may temporarily suspend or restrict application of the provisions in question in its territory. It shall immediately inform the other Member States and the Commission thereof and give reasons for its decision.

2. The Commission shall examine the grounds given by the Member State referred to in paragraph 1 as soon as possible within the Standing Committee on Foodstuffs, and shall then deliver its opinion forthwith and take the appropriate measures.

Article 7

Member States shall not prohibit or restrict trade in foods which comply with this Regulation or specific Regulations adopted pursuant to this Regulation for reasons related to aspects covered by the provisions of this Regulation.

Article 8

1. Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Standing Committee on Foodstuffs, set up under Decision 69/414/EEC [1] acting in an advisory capacity, hereinafter referred to as 'the Committee'.

2. The Chairman shall submit to the Committee a draft of measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 9

This Regulation shall enter into force on 1 January 1993.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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[1] OJ No L 291, 19. 11. 1969, p. 9.