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Section *General Food Law*

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SUMMARY REPORT

A.01 Exchange of views of the Committee on the draft legal Act notified by Greece on extension of the trial measure on origin indication of milk and dairy products.

On 16 April 2020, the Greek authorities notified a draft legislation on extension of the measure on origin indication of milk and dairy products as notified to the Commission on 22 September 2016.

The Greek authorities presented their notified measure as well as the reasons justifying it. It was explained that the implementation of the basic act had shown the need for minor adjustments in the modalities on the provision of the origin indication. Furthermore, the Greek delegation observed that the reasons justifying the trial measure from 2016 remain valid for the notified draft. As additional justification for this extension, it was referred to the new initiatives to be launched by the Commission in the framework of the "Farm to Fork Strategy" and to the citizens' initiative relating to a mandatory declaration of origin for all food products (Eat ORIGINal! Unmask your food). Finally, the Greek authorities presented the outcome of their evaluation report on the implementation and effectiveness of their national pilot on the matter and submitted to the Commission on 19 May 2020.

During the discussion, several Member States expressed a strong opposition to the notified draft. In particular, they questioned its legality in the light of Article 39(2) of Regulation (EU) No 1169/2011. Those delegations expressed their opposition to any national schemes and called for harmonised EU rules in the field. Member States who have adopted similar national provisions on origin expressed their support for the Greek notified draft measure.

The Commission took note of the observations expressed. It also informed that a letter for additional clarification was addressed to the Greek authorities and the standstill period of three months will start after receipt of these clarifications.

A.02 Presentation of the F2F strategy for fair, healthy and environmentally-friendly food system.

The Commission presented to the Member States the Farm to Fork Strategy and stressed the fact that this strategy is part of the Recovery plan of the EU.

A Member State thanked the Commission for the ambitious strategy and asked some specific questions:

- Maximum limits for nutrients: the Member State asked whether limits are foreseen also for mineral and vitamins. As for the maximum limits for macronutrients (e.g. fat), the Member State asked whether the Commission had already foreseen the regulatory framework for setting such limits, and whether these limits would cover baby food.
- Mandatory front of package nutrition labelling: the Member State asked whether an amendment of the FIC regulation was foreseen for this initiative.
- Sustainable food labelling framework: the Member State asked which regulatory framework was envisaged for this initiative.
- The Member State also enquired whether some specific actions were foreseen as regards other means of informing the consumers (e.g. digital) as this action was mentioned in the body of the communication but not in the action plan.
- Botanicals: the Member State asked the Commission some details on the intentions and way to proceed regarding botanicals.

Another Member State congratulated the Commission on this ambitious strategy and asked the following questions:

- Extension of the mandatory origin or provenance indication for certain products: the Member State asked the Commission whether this will be based on a new impact assessment and whether it will take into account the value of origin indication in supporting consumers in a sustainable food choice.
- Sustainable food labelling framework: the Member State asked the Commission what will be covered by such framework and whether there is the intention to adopt a sustainability label.

The Commission thanked the Member States and provided the following answers:

- Front of package nutrition labelling: an amendment of the FIC legislation is considered together with other proposals related to labelling. These proposals will follow Better Regulation rules (impact assessment, road map, public consultation etc.). The labelling actions are already foreseen for the end of 2022.
- Sustainable food labelling: the Commission explained the link with the general framework on sustainable food systems and the intention of this labelling framework that would be to cover nutritional, climate, environmental and social aspects of food products.
- Digital food information to the consumers: the Commission explained that it will take action on all areas as stated both in the action plan and the body of the Communication.
- Setting of maximum level: the Commission highlighted that minerals and vitamins are not covered by this action. The Commission also noted that there

is a wide support from Member States for harmonisation in this area. Although the issues of maximum level of vitamins and minerals and botanicals are not covered by the Farm to Fork Strategy, this does not prevent the Commission from taking action in accordance with the relevant legal provisions and the conclusions of the Commission Staff Working Document on the evaluation of Nutrition and Health Claims Regulation.

A Member State asked why the word "draft" was still appearing in the annex of the Communication (for the action plan) in the official version published on Eurlex. The Commission explained this should be corrected and that the action plan is the "final" action plan.

C.01 Exchange of views of the Committee on a draft Commission Regulation refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health.

This draft Commission Regulation was submitted to the Standing Committee in accordance with Article 18(5) of Regulation (EC) No 1924/2006. It aims at refusing to authorise the use of five health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health, pursuant to Article 13(5) of Regulation (EC) No 1924/2006.

More specifically, the applications subject to this draft measure relate to the effects of:

- L-carnitine and normal lipid metabolism;
- Black tea and maintenance of normal endothelium-dependent vasodilation;
- NWT-02, a fixed combination of lutein, zeaxanthin and docosahexaenoic acid in egg yolk, and a reduction of the loss of vision;
- XERME®, a xanthohumol-enriched roasted malt extract, and protection of DNA from oxidative damage;
- A combination of beta- sitosterol and beta- sitosterol glucoside and normal function of the immune system.

The European Food Safety Authority (EFSA) gave an unfavourable opinion to these health claims and accordingly they should not be authorised. The Commission presented the draft and the health claims therein. There were no comments or observations by the delegations in the substance of the draft measure.

The Commission informed the delegations of its intention to obtain the vote on this draft Regulation by written procedure. The delegations gave their agreement to proceed in that way.

C.02 Exchange of views of the Committee on a draft Commission Regulation (EU) amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards botanical species containing hydroxyanthracene derivatives.

The Commission informed Member States about the outcome of the feedback consultation on this draft Commission Regulation. The consultation period ran until 23 April 2020, during which 70 feedbacks were submitted by different stakeholders. The majority of comments received raised concerns on:

- The scientific opinion of EFSA on the safety of hydroxyanthracene derivatives (HAD) for use in food;

- The lack of thresholds for the residual HAD-content in the draft measure;
- The scope of the draft measure;
- The lack of official validated analytical methods to be used for the detection of HADs;
- The lack of a transition period in the draft measure.

The Commission explained how those comments had been taken into account and presented the revised draft measure to Member States. During the exchange of views, some Member States expressed their opposition to the draft measure arguing that the substances concerned, including Aloe extracts, should be placed under Part C of Annex III of Regulation (EC) No 1925/2006 due to the scientific uncertainties highlighted in the EFSA opinion. Certain Member States expressed their support for the revised draft measure, while asking for some clarification on:

- The scope of the measure, in particular, whether it would cover only food supplements and whether the measure would apply to substances added for flavouring purposes to the products;
- The intention of the added recital in the draft measure;
- The enforcement of the proposed rules, in particular, the analytical test methods to be used for the detection of HADs;
- The botanical extracts placed under Part C of Annex III of Regulation (EC) No 1925/2006, in particular in relation to the proposed entries of Part A in the draft measure;
- The designation "extracts" in the draft measure.

The Commission reminded Member States of the conclusions of the scientific opinion, in particular that certain HADs and Aloe extracts were found to be genotoxic and/or carcinogenic by EFSA based on the data obtained from in vitro and in vivo clinical studies. Due to the severe safety concerns the substances concerned might have on health, allowing the use of those substances in food subject to scrutiny would not adequately protect consumers` health. The Commission recalled the extensive discussions that had taken place on the matter and emphasized the importance of adopting the measure as soon as possible. On the specific questions raised by Member States, the Commission provided the following clarifications:

- The draft measure is in accordance with the scope of Regulation (EC) No 1925/2006 and the procedure under Article 8 of that Regulation. It will therefore be applicable to a substance, or an ingredient containing the substance, when added to food for nutritional or physiological purposes, without regulating other possible uses, such as the addition of a substance for flavouring purposes.
- The intention of the additional recital is to clarify the technical feasibility of removing HADs during production and to acknowledge the fact that HADs at trace levels can still be present as technically unavoidable impurities.
- In order to ensure the harmonised enforcement of the rules the Commission informed that a technical discussion at expert group level on the analytical methods applied and analytical limits will take place. In this context, reference was made to the European Union Reference Laboratories (EURLs) that could provide technical assistance to the Commission on the matter. The Commission further explained that given that EFSA in its scientific opinion was not able to establish a safe daily intake of HADs, no safety limit could be

set in the measure to differentiate between products with a different HAD-content.

- The complete characterisation of complex natural substances was lacking in the scientific assessment due to the absence of pertinent data. Without a complete characterisation of the botanical extracts included in Part C, uncertainty remains as to whether they contain the prohibited substances listed in Part A. Food business operators will need to ensure that their products do not contain the prohibited substances listed in Part A.
- The proposed measure including the terminology used therein is based on the scientific opinion of EFSA. No definition has been provided for "extracts" in the scientific opinion that could be used to define the term in the measure.

The Commission asked Members States to send their comments on the revised draft measure by 17 June 2020.

M.01 Presentation of the outcome and conclusions of the EFSA scientific opinion on barley starch.

The Commission informed about the adoption of the *EFSA* scientific opinion *related to a notification from Lyckeby Starch AB on barley starch to be used in the manufacturing of several foods as ingredient, of the food additive modified starch and of glucose syrups pursuant to Article 21(2) of Regulation (EU) No 1169/2011 – for permanent exemption from labelling* and presented its main conclusions In particular, the Commission explained that:

- barley starch is used as an ingredient in food manufacturing and as raw material for making glucose syrup and the food additive modified starch;
- EFSA clarified in its opinion that glucose syrups based on barley have been already exempted from allergen labelling as per Annex II of Regulation (EU) No 1169/2011 and that therefore the application is considered only for the exemption from labelling of all foods manufactured from barley starch;
- it is further highlighted that no relevant human intervention studies with barley starch or food products derived from it were provided by the applicant;
- for the anticipated intake, the calculated total protein intake from barley starch was above the minimal (observed) eliciting doses (MED/MOED) for barley.

The Commission further informed the delegations that on the basis of the data presented by the applicant and on data currently available in the literature, the Panel concluded that:

- The data available are not sufficient to conclude on the likelihood of adverse allergic reactions in cereal-allergic individuals due the consumption of barley starch under the conditions of use proposed by the applicant.
- For coeliac (queliak) disease, assessment of the evidence submitted indicates that the consumption of foods produced from barley starch as raw material or foods containing barley starch as an ingredient are unlikely to cause an adverse reaction with coeliac disease who are not allergic to cereals, provided that the value of gluten considered by Codex Alimentarius and implementing Regulation (EU) No 828/2014 for 'gluten-free' foods (20 mg/kg) is not exceeded.

M.02 Information point from The Netherlands on a notification of a national measure on toddler milk.

The Dutch authorities informed the Committee of their intention to notify a national measure on toddler milk in the coming months and explained the reasons for the planned adoption of the measure. The Commission explained that the draft measure would be assessed under the TRIS procedure in accordance with the applicable legislation.