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DOCUMENT 1-243/84

REPORT

drawn up on behalf of the Committee on the Environment,
Public Health and Consumer Protection

on the proposal from the Commission of the European
Communities to the Council (Doc. 1-1111/83 - COM(83) 626
final) for a directive on the approximation of the laws
of the Member States on extraction solvents used in the
production of foodstuffs and food ingredients

Rapporteur: Mrs V. SQUARCIALUPI

PE 89.670/fin.

By letter of 22 November 1983, the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients.

On 12 December 1983, the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Economic and Monetary Affairs and the Legal Affairs Committee for an opinion.

On 1 December 1983, the Committee on the Environment, Public Health and Consumer Protection appointed Mrs Squarcialupi rapporteur.

The committee considered a working document on the proposal for a directive at its meeting of 23 February 1984 and the draft report at its meeting of 26 April 1984.

At the latter meeting, the committee decided by 13 votes to 3 and 1 abstention to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The committee adopted the motion for a resolution as a whole unanimously.

The following took part in the vote: Mr COLLINS, chairman; Miss HOOPER, vice-chairman; Mrs SQUARCIALUPI, rapporteur; Mr BERNARD (deputizing for Mrs WEBER), Mr BOMBARD, Mr FUCHS (deputizing for Mr ALBER), Mr JOHNSON, Mrs KROUWEL-VLAM, Mrs LE ROUX, Mrs LENZ (deputizing for Mrs LENZ-CORNETTE), Mr MUNTINGH, Mr SCHALL (deputizing for Mr GHERGO), Mrs SCHLEICHER, Mrs SEIBEL-EMMERLING, Mr SHERLOCK, Mrs VAN HEMELDONCK and Mr WAWRZIK (deputizing for Mr DEL LUCA).

The opinions of the Committee on Economic and Monetary Affairs and the Legal Affairs Committee are attached.

The report was tabled on 4 May 1984.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

	<u>Page</u>
Amendments to the Commission proposal	5
A. MOTION FOR A RESOLUTION	11
B. EXPLANATORY STATEMENT	13
Annex I: Opinion of the Committee on Economic and Monetary Affairs	17
Annex II: Opinion of the Legal Affairs Committee	19

The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution:

Proposal for a Council directive on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients.

Amendments tabled by the Committee on the Environment, Public Health and Consumer Protection

Text proposed by the Commission of the European Communities

AMENDMENTS No. 1 and No. 2

Recital 7

Whereas no specific limitation need be laid down for substances listed in Part I of the Annex and found acceptable from the point of view of safety to the consumer when used under conditions of good manufacturing practice and whereas such residues, in the case of propane, butane and nitrous oxide at 1 mg/kg; of butyl acetate, propan-2-ol and acetone at 5 mg/kg; and of ethyl acetate, ethanol and methanol at 10 mg/kg of the food or food ingredient represent technically unavoidable maxima attained only in exceptional circumstances; but if such a limitation were possible, it would be a useful additional provision;

Recital 7

Whereas no specific limitation need be laid down for substances found acceptable from the point of view of safety to the consumer when used under conditions of good manufacturing practice and whereas such residues, in the case of propane, butane and nitrous oxide at 1 mg/kg; of butyl acetate, propan-2-ol and acetone at 5 mg/kg; and of ethyl acetate, ethanol and methanol at 10 mg/kg of the food or food ingredient represent technically unavoidable maxima attained only in exceptional circumstances;

Amendments tabled by the Committee
on the Environment, Public Health
and Consumer Protection

AMENDMENT No. 3

Recital 8

Whereas to take account of protection of public health, the conditions of use of other extraction solvents listed in Part II of the Annex and residues permitted in food and food ingredients must be established;

AMENDMENT No. 4

Recital 12

Whereas in order to encourage technical progress Member States should not be prevented from authorizing provisionally under their control, as far as protection of public health is concerned, the use, in their territory, of extraction solvents not provided for in this Directive pending a final decision at Community level;

AMENDMENT No. 5

Recital 15

Whereas 18 months is sufficient time for Member States to take the necessary measures for the free movement of products complying with the provisions of this Directive, but in some cases a longer period seems necessary to prohibit the use of extraction solvents which do not comply therewith so that processes used in the manufacture of foodstuffs containing residues of extraction solvents can be adapted to the new requirements laid down in this Directive.

Text proposed by the Commission
of the European Communities

Recital 8

Whereas to take account of protection of public health, the conditions of use of other extraction solvents and residues permitted in food and food ingredients must be established;

Recital 12

Whereas in order to encourage technical progress Member States should not be prevented from authorizing provisionally under their control the use, in their territory, of extraction solvents not provided for in this Directive pending a final decision at Community level;

Recital 15

Whereas 18 months is sufficient time for Member States to take the necessary measures for the free movement of products complying with the provisions of this Directive, but a longer period seems necessary to prohibit the use of extraction solvents which do not comply therewith so that processes used in the manufacture of foodstuffs containing residues of extraction solvents can be adapted to the new requirements laid down in this Directive.

Amendments tabled by the Committee
on the Environment, Public Health
and Consumer Protection

Text proposed by the Commission
of the European Communities

AMENDMENT No. 6

Article 1(1)

This Directive applies to extraction solvents used or intended for use in the production of foodstuffs or food ingredients. It shall not apply to food additives.

Article 1(1)

This Directive applies to extraction solvents used or intended for use in the production of foodstuffs or food ingredients.

AMENDMENT No. 7

Article 1(3)

For the purpose of this Directive, extraction solvent means a solvent which is used in an extraction procedure during the processing of raw materials, of foodstuffs, or of components or ingredients of these products and which is partially or wholly removed but which may result in the non-intentional but technically unavoidable presence of residues or derivatives in the foodstuff or food ingredient.

Article 1(3)

For the purpose of this Directive, extraction solvent means a solvent which is used in an extraction procedure during the processing of raw materials, of foodstuffs, or of components or ingredients of these products and which is partially or wholly removed but which may result in the non-intentional but technically unavoidable presence of residues or derivatives in the foodstuff or food ingredient.

For the purposes of this Directive 'solvent' means any substance which is capable of dissolving food, or any component of food, including any contaminant present in or on food.

Amendments tabled by the Committee
on the Environment, Public Health
and Consumer Protection

Text proposed by the Commission
of the European Communities

AMENDMENT No. 8

Article 8

1. If amendments to the annexes of this Directive become necessary in order to take account of technical progress, the Commission shall submit proposals for such amendments to the European Parliament.
2. If the European Parliament wishes to deliver an opinion on such proposals for amendments, it shall communicate this to the Commission no later than three months after receipt of the proposals. The opinion shall be delivered within three months of this communication or by the end of the second part-session after this communication, whichever is the longer period.
3. If the European Parliament does not inform the Commission, by the deadline laid down in paragraph 2, that it wishes to deliver an opinion on the proposals for amendments, or if it does not deliver an opinion by the second deadline laid down in paragraph 2, proposals for amendments shall be referred to the Standing Committee for Foodstuffs set up by Decision 69/414/EEC¹. If the Commission agrees, the deadline for delivering Parliament's opinion may be extended.

Article 8

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee for Foodstuffs set up by Decision 69/414/EEC (hereinafter called 'the Committee') by its chairman, either on his own initiative or at the request of a representative of a Member State.
2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a period fixed by the chairman according to the urgency of the matter. A qualified majority of votes as laid down in Article 148 (2) of the Treaty shall be required before the Committee can deliver its opinion.

The chairman shall not vote.
3. (a) The Commission shall adopt the proposed measures where they are in accordance with the opinion of the Committee.

(b) Where the proposed measures are not in accordance with the opinion of the Committee, or

Amendments tabled by the Committee
on the Environment, Public Health
and Consumer Protection

Text proposed by the Commission
of the European Communities

4. When the European Parliament has delivered its opinion on proposals for amendments, the Commission shall submit to the Council without delay
- a) said proposals, if approved by Parliament,
 - b) any new proposals submitted by Parliament and accepted by the Commission,
 - c) its own proposals and Parliament's opinion, if it does not wish to comply with Parliament's opinion.

The Council shall decide by a qualified majority.

5. If the Council has not acted within three months of the date on which the proposals were submitted, the proposed measures shall be adopted by the Commission.

if no opinion is delivered, the Commission shall submit to the Council without delay a proposal on the measures to be adopted. The Council shall decide by a qualified majority.

- (c) If the Council has not acted within three months of the date on which the proposal was submitted, the proposed measures shall be adopted by the Commission.

AMENDMENT No. 9

Article 9(1)

Member States shall take all the necessary measures to ensure that the substances listed in the Annex and intended for use as extraction solvents in foodstuffs may be marketed only if their packagings or containers bear the following information:

Article 9(1)

Member States shall take all necessary measures to ensure that the substances listed in the Annex and intended for use in foodstuffs may be marketed only if their packagings or containers bear the following information:

AMENDMENT No. 10

Article 9 (3)

Member States shall refrain from laying down requirements more detailed than those already contained in this Article, concerning the manner in which the particulars provided are to be shown.

Member States shall, however, ensure that the sale of solvents within their own territories is prohibited if the particulars provided in this Article do not appear in the language of the country in which the product is marketed unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages, and it may not result in a customs check on imported solvents.

AMENDMENT No. 11

Article 10 (2)

Delete

Article 9 (3)

Member States shall refrain from laying down requirements more detailed than those already contained in this Article, concerning the manner in which the particulars provided are to be shown.

Member States shall, however, ensure that the sale of solvents within their own territories is prohibited if the particulars provided in this Article do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages, and it may not result in a customs check on imported solvents.

Article 10 (2)

This Directive shall not apply to extraction solvents, foodstuffs or ingredients intended for export outside the Community.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities for a directive on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM(83) 626 final)¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 1-1111/83),
 - having regard to the reports of the Scientific Committee for Food,
 - having regard to the Council resolution of 17 December 1973 on industrial policy²,
 - having regard to Directive 73/241/EEC on cocoa and chocolate products³ and Directive 77/436/EEC on coffee extracts and chicory extracts⁴,
 - having regard to the principles which form the basis of a European consumer protection policy,
 - having regard to the preliminary⁵ and second⁶ programmes for a consumer protection and information policy,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs and the Legal Affairs Committee (Doc. 1-243/84),
 - having regard to the result of the vote on the Commission's proposal,
1. Welcomes the proposal for a directive which regulates extraction solvents at Community level and pursues the positive list strategy;

¹ OJ C 312 of 17/11/1983, page 3

² OJ C 117 of 31/12/1973

³ OJ L 228 of 16/8/1973, page 23

⁴ OJ L 172 of 12/7/1977, page 20

⁵ OJ C 92 of 25/4/1975, page 1

⁶ OJ C 133 of 19/5/1981, page 1

2. Fears that the excessive number of national derogations may reduce the directive's Community impact and its effectiveness with regard to distortion of competition and consumer protection;
3. Believes that the many exemptions contained in the Commission proposal will make effective checks difficult;
4. Regrets that the Commission's explanatory note makes no reference to the opinions expressed by consumers' representatives;
5. Hopes that the Commission will, as soon as possible, submit proposals on purity criteria for solvents which are imported, with regard to health and possible reactions with foodstuffs and the environment;
6. Considers however that the directive would be more complete if maximum permitted residues were also specified in the case of solvents listed in part I of the annex;
7. Requests that, in accordance with the suggestions of the Scientific Committee for Food, steps should be taken to prevent foodstuffs with solvent properties - such as vegetable oils and fats - from absorbing impurities liable to have harmful toxicological effects:
8. Instructs its President to forward to the Council and the Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT

INTRODUCTION TO THE PROPOSAL

Subject of the proposal

The processing of foodstuffs and their production in the broadest sense often necessitate the use of solvents, in the case of both primary commodities and certain ingredients which are added to the products. Solvents are put to various types of use, which can be divided into two major categories.

- Suspensory or transportation solvents

These are used to ensure that certain additives (colourings, flavourings, etc.) are diffused evenly throughout the foodstuff;

- Extraction solvents

These enable specific nutritive elements to be extracted from more or less edible primary commodities of widely diverse origins. One example would be edible oils, which can be obtained by pressing plant matter, but, in the interests of a higher yield, are most commonly produced by treating the primary commodity (for instance olives, groundnut seeds, etc.) with the most appropriate solvents. These 'extract' the entire oil content and all the substances which the solvent is capable of dissolving. Solvents are also used in the production of decaffeinated coffee, from which the caffeine has to be removed by extraction with suitable solvents, the extraction of cocoa butter and that of natural flavouring materials from the substances in which they occur.

Needless to say, once the extraction process has been completed, the solvent (not generally edible) must be entirely removed from the foodstuff. It is this which is the most delicate stage of the technical process, because, although virtually all the solvent is removed in certain cases, in other cases this is not so.

A great many toxicological problems arise in all cases, with various implications related to:

- (1) the chemical properties of the solvent;
- (2) the inherent toxicological characteristics of the solvent;
- (3) the quantity of solvent residues in the foodstuff;

- (4) the presence of impurities, of various types, in the solvent, or of substances deliberately added to stabilize the solvent, which then remain in the foodstuff;
- (5) the possibility of the solvent, or the impurities contained in it, interacting chemically with the foodstuff and its surroundings.

However, the problems posed by the use of solvents are not greatly dissimilar to those connected with the use of food additives.

There are of course fundamental differences. For extraction to take place, a large quantity of solvent must be left for a certain time in contact with the primary commodity, and this may do a great deal to encourage undesirable chemical reactions, or else cause the foodstuff to absorb the impurities contained in the solvent.

The first two points are related to the physical and chemical characteristics of the solvent. Given that technology uses solvents for an extremely wide range of purposes, there are a great many types of solvent which can be employed.

The Italian food industry, for example, requested authorization (in 1972) from the Ministry of Health to use something like forty substances. The ideal solvent must in all cases have a relatively low boiling point, a low evaporation temperature (for economic reasons) and in addition leave the least possible residue in the foodstuff.

With regard to the third point in particular, it is certainly not enough to trust to the rules of 'good manufacturing practice', since toxicology cannot reason in economic terms!

It is quite true that in any industrial process, attempts are made to remove as much solvent as possible (if only because of its high cost), but this should not induce any sense of security. Only in these last years in fact have sufficiently sophisticated methods of analysis been developed, making it possible to detect small concentrations, and the theoretical literature on the subject is consequently still incomplete. Nor, in all probability, is the requisite degree of awareness to be found among the economic operators and supervisory bodies.

As far as the fourth point is concerned, the presence of impurities in the solvent itself is a problem of some importance, which is intimately bound up with solvent manufacturing technology.

It goes without saying that this aspect must be covered in any future rules governing the sector as a whole. Impurities or stabilizing additives can vary widely in nature, ranging from (more or less toxic) heavy metals to compounds which are chemically similar to the original solvent, but pose far more serious problems with respect to toxicity. For instance, mildly toxic hydrocarbons derived from petroleum, such as hexane, can contain significant quantities of polynuclear hydrocarbons, which are suspected carcinogens.

Concentrations of these last may find their way into the oils extracted from seeds, or into the by-products (intended for animal consumption).

The fifth point is even more problematic. Here too, there are unfortunately very few experimental findings to draw on, but a number of alarming cases have been known for some time: for instance, cysteine (one of the components of protein) combines with the solvent trichloroethylene to form 2-chloro-vinylcysteine, which is known to be a toxic substance, and reactions of this type probably also occur with other halogenated hydrocarbons in common use.

Finally, even the external environment (light, oxygen in the air, heat) can transform the molecule of the solvent, by a mechanism which is often, but not always, similar to oxidation.

For instance, alcohols can easily be converted into aldehydes, which are highly reactive substances and will therefore almost certainly interact with the surrounding environment (i.e. with the foodstuff!).

It can of course also happen that the substances deriving from the molecular transformation of solvents are themselves highly toxic. When chloroform, for example, is decomposed, it gives off a poisonous gas, phosgene: this is why stabilizing additives are used, but what guarantees of safety do they offer?

From the toxicological point of view, the stabilizers used in solvents may be divided into two groups: the substances which may at present be used as food additives and those not covered by such provisions. According to the Commission's Scientific Committee for food (in an opinion delivered on 15 January 1981), the first group includes citric acid, ethanol, methanol and butylated hydroxytoluene - there are no particularly serious problems which would debar the use of these substances. The second group on the other hand, includes thymol, triethylamine, pyrogallol and 2-methyl-2-butene (amylene).

The Committee goes on to say that these substances probably leave small quantities of residues in foodstuffs, but toxicological examinations would be required in order to evaluate the effects of this.

Toxicological tests will therefore have to be conducted on the solvents containing these stabilizers. In the case of solvents intended for the production of foodstuffs, it is recommended, as a general rule, that the stabilizers in the first group should be used wherever possible. The Committee finally recommends that a list of acceptable stabilizers should be compiled and updated at periodic intervals.

It was only towards the end of the 1960s that international bodies began to take an interest in the problem. In 1966, the meeting of the Food Additives Committee of the FAO/WHO Codex Alimentarius Commission drew the attention of health authorities to the need for rules on the solvents used in the extraction of cocoa butter. At about the same time, the Director-General of the FAO personally undertook to have research conducted into the solvents used in the food industry.

Since then, and taking account also of US legislation, the FAO/WHO Joint Expert Committee has tested a number of solvents held to be relatively acceptable, while IUPAC (International Union of Pure and Applied Chemistry) has assisted in the standardization of the most widely used solvents by defining purity criteria.

In the field of experimental research, a great deal of attention has been devoted, and will have to be in the future, to determining acceptable daily intakes (ADIs). The Scientific Committee for Food has itself pointed out (in its opinion of 15 January 1981) that, in the case of the solvents considered provisionally acceptable for use, the limit quantities of residues in foodstuffs were based not on toxicological data, but on analytical evidence, i.e. the quantities actually detected! It is obvious that this whole subject is claiming the fullest attention of the Community authorities.

OPINION

of the Committee on Economic and Monetary Affairs

Draftsman: Mr HALLIGAN

On 21 December 1983, the Committee on Economic and Monetary Affairs appointed Mr HALLIGAN draftsman of the opinion.

At its meeting of 21 March 1984, the committee considered the draft opinion and adopted its conclusions unanimously.

The following took part in the vote: Mr Moreau, chairman; Mrs Desouches, draftsman (deputizing for Mr Halligan); Mr Beazley, Mr Bonaccini, Mr Giavazzi, Mr Hopper, Mr Müller-Hermann, Mr Nyborg, Mr Purvis (deputizing for Mr Ferranti) and Mr Welsh.

1. Insists that extraction solvents should not be allowed to constitute a technical barrier to trade.
2. Believes that harmonisation in this area should be undertaken in the context of Community policy as a whole.
3. Stresses it as being self-evident that in order for foodstuffs to be marketed they should be safe and that, therefore, all extraction solvents must meet clearly defined minimum safety requirements.
4. Believes that a revision of the directive concerning the temporarily acceptable solvents ought to be undertaken as soon as it is established that a solvent constitutes a danger to health and that, therefore, the procedure in Article 8 should take precedence over that set out in 2(4).
5. Maintains that, where a decision pursuant to the procedure laid down in Article 8 is to be taken exclusively by the Council, the European Parliament should, nevertheless, be consulted as well in order to maintain balance between the Community institutions.
6. Supports the rest of the proposal for a directive.

OPINION
of the
Legal Affairs Committee

At its meeting of 21 and 22 March 1984, the Legal Affairs Committee appointed Mr Tyrrell draftsman.

The Committee examined the draft opinion at its meeting of 24 and 25 April 1984, and adopted it unanimously.

The following were present at the vote: Mrs Veil, Chairman; Messrs Luster and Turner, Vice-chairmen; Mr Tyrrell, draftsman; Messrs D'Angelosante, Bruno Friedrich, Geurtsen, Gontikas, Sieglerschmidt and Vié.

I. Introduction

1. The present opinion of the Legal Affairs Committee concentrates on two aspects of the Commission proposal, viz. the legal basis which has been chosen for the directive and the proposed procedure for the adoption of technical amendments to the conditions of use and maximum residue limits laid down in the annex, which are necessary to take account of progress in scientific and technical knowledge.

II. The Legal Basis

2. The proposed directive is based on Article 100 of the EEC Treaty which provides that:

"The Council shall ... issue directives for the approximation of such provisions laid down by law, regulation or administrative action in Member States as directly affect the establishment or functioning of the Common Market".

3. In paragraph 6 of its explanatory note, however, the Commission notes that "there have been no reports of obstacles to trade in foodstuffs containing residues of extraction solvents, but the Commission is informed that many Member States are intending to legislate in this area. As far as can be ascertained, the differing legislations so developed would create problems in the future".

4. On a literal reading of Article 100, the preconditions for its application appear not to be fulfilled as there are no "such provisions as directly affect the establishment or functioning of the Common Market". The Committee is, of course, well aware that "approximation of law in the Community ... is not an end in itself; it is not the hobbyhorse of a few ivory tower lawyers searching for an ideal world; it is not as such intended to facilitate international cooperation"¹: but, as the positive role and

¹C-D. Ehlermann, "Community Policy with Regard to the Approximation of Laws", Appendix 3(b) to the twenty-second report of the House of Lords Select Committee on the European Communities, Session 1977/78 HL 131

useful effects of approximation of legislation have been - and are - contested especially in some countries, the Legal Affairs Committee has always insisted that the Commission fully justify its proposals to approximate the legislations of the Member States.

5. In proposing a directive based on Article 100 EEC in an area where there is no evidence of any existing breach of Article 30 EEC the Commission is, so to speak, proposing legislation in anticipation of the hindrances to the free movement of foodstuffs to which legal or administrative provisions in the Member States could give rise (e.g., a prohibition on the importation of foodstuffs which do not comply with national regulations). The committee noted that Member States could seek to justify hindrances of this type by reference to Article 36 EEC and that the adoption of such national measures could constitute a danger to the functioning of the Common Market.

6. It may be that the Commission's interpretation of Article 100, which goes beyond a literal reading of the terms of this provision, could be justified teleologically by reference to Articles 30 to 36 on the free movement of goods, and more particularly to Article 5 of the Treaty (which calls upon Member States to "abstain from any measure which could jeopardize the attainment of the objectives of this Treaty") and Article 3 (which lays down the elimination of quantitative restrictions on the import and export of goods and of all measures having equivalent effect as one of the activities of the Community). It is nonetheless regrettable that the Commission has not seen fit to explain itself more fully on this novel point. Without prejudice to the validity of the Commission's reasoning, the Committee notes that, in any case, the question of the legal basis of this proposal for a directive is more likely to be theoretical than one of major practical importance.

III. The Proposed Procedure for the Adoption of Technical Amendments

7. The amendment proposed to Article 8 of the proposed directive is based on an earlier similar amendment which the European Parliament adopted on Friday 20 May 1983, to the proposal¹ for a Council Directive amending Council

¹OJ C 181, 19 July 1982, page 30; Doc. 1-192/82

Directive No. 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive ignition engines of motor vehicles, and follows from the Committee's work on the motion for a resolution (Doc. 1-1392/83) tabled by Mr Collins on behalf of the Committee on the Environment, Public Health and Consumer Protection on "Technical Adaptation Committees"¹. The rationale behind the amendment is fully explained in the report on this motion for a resolution drawn up by Mr Tyrrell (PE 89.463/fin.), the thrust of which can be applied to regulatory committees in general².

Amendment No. 1

Article 8 to read as follows:

- "1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the European Parliament by the Commission or at the request of the representative of a Member State.
2. The Commission shall submit to the Parliament a draft of the measures to be taken. The European Parliament shall notify the Commission of its intention to deliver an opinion on the proposed measures within a period of two months or two part-sessions, whichever is the longer.
3. Where the European Parliament has notified the Commission of its intention to adopt an opinion, it shall adopt any such opinion within a period of three months from notification; this deadline may, in special cases, be extended with the Commission's assent.
4. The Commission shall adopt the measures proposed:
 - where the European Parliament does not notify the Commission within the deadline set in paragraph 2 of its intention to draw up an opinion on the proposed measures,

¹This motion for a resolution follows on from the Collins report (Doc. 1-82/83); the opinion of the Legal Affairs Committee which is attached thereto first draws attention to the institutional problems to which such committees give rise.

²The Committee on Foodstuffs is an ordinary regulatory committee rather than a committee for the adaptation to technical and scientific progress of the directive strictly so called.

- where the European Parliament, having notified the Commission of its intention to draw up an opinion, does not adopt any such an opinion within the deadline set in paragraph 3,

- or where the proposed measures are in accordance with the opinion of the European Parliament.

5. Where the proposed measures are not in accordance with the opinion of the European Parliament, the Commission shall submit to the Council without delay the proposed measures as amended by the European Parliament. The Council shall decide by a qualified majority.

6. If the Council has not acted within three months of the date on which the proposal as amended was submitted, the Commission shall adopt the proposed measures as amended by the European Parliament."

8. CONCLUSIONS

The Legal Affairs Committee:

- a) notes with interest the Commission's reliance on Article 100 of the EEC Treaty as a legal basis for the present proposal for a directive in anticipation of future hindrances to the free movement of goods, while regretting that the reasoning behind this interpretation was not more fully expounded, and
- b) calls upon the committee responsible to adopt Amendment No. 1 to Article 8 of the proposed directive set out above or, alternatively, to reject Article 8 as it stands without defining a substitute.

