

Special News Bulletin

December 17, 2013

TO: WCO MEMBERS

Mineral Oil Issue back in discussion

On December 05, 2013 a meeting on the second draft of the Mineral Oil Hydrocarbon Ordinance – organised by the German Ministry of Food, Agriculture and Consumer Protection – took place.

Within this meeting the Ministry discussed 4 alternatives how to reduce Mineral Oil Aromatic Hydrocarbons (MOAH) and Mineral Oil Saturated Hydrocarbons (MOSH):

1) Alternative:

The transition of MOAH from packaging into food is prohibited (2nd draft of the Mineral Oil Hydrocarbon Ordinance). A detection limit is not mentioned.

2) Alternative:

A limit value (detection limit) of 0,15 mg/kg foodstuff for MOAH is discussed; however, there are different gradations in relation to fat content and detection limit:

Fat content:	limit of determination:
< 4% fat (for example rice, maize, noodles)	0,1 – 0,2 mg/kg
up to 20% fat (for example cereals, muesli)	0,5 mg/kg
up to 40% fat (for example chocolate, nut nougat cream)	0,5 – 1 mg/kg
> 40% fat (for example vegetable oil)	2 - 4 mg/kg

3) Alternative:

A functional barrier could prevent migration from MOAH into foodstuff, if migration could not be prevented in another way. A detection limit could be described.

4) Alternative:

Instead of the previous approach in the 2nd draft, the examination could be based on the food packaging (and not on the foodstuff).

Not more than *20 mg/kg MOSH (C17 – C25) and *5mg/kg MOAH are allowed to migrate from the food contact material (for example a box made out of cardboard) into the food. If this limit can't be kept, a barrier will be required.

* These figures are not officially confirmed and are still under discussion.

Remark: None of the alternatives are feasible!

Within the meeting it turned out that still today no calibrated method in assessing potential (MOSH and MOAH) risks is existing. Round robins, organised by converting association, showed completely different results.

Further on, the **sources of mineral oil are ubiquitous**. Last year mineral oil was detected in the chocolate of Christmas Calendars. Examinations carried out on behalf of the German Federal Paper Association; however, showed that the calendars were made out of virgin fibre. The chocolate was packed in aluminium foil. Therefore a migration from the packaging into the chocolate was excluded. (no traces of mineral oil are in virgin fibre based papers and aluminium foil is a perfect barrier). Obviously the chocolate in itself had already contained traces of Hydrocarbons before it was packed.

The **German Ministry has no competence to enact such an ordinance**. According to EU Directive Nr. 1935/ 2004, the European Union (and not a single Member State) should establish an authorisation procedure if free trade could be hindered within the EU. Remark 13 of the Directive states:

*“Differences between national laws, regulations and administrative provisions concerning the safety assessment and authorisation of substances used in the manufacture of materials and articles intended to come into contact with food may hinder the free movement of those materials and articles, creating conditions of unequal and unfair competition. **An authorisation procedure should therefore be established at Community level.** In order to ensure harmonised safety assessment of those substances, the Authority should carry out such assessments”.*

The (draft) German Ordinance is clearly infringing on rules of free trade: The British Food Standards Agency (FSA) responded on June 6, 2012 to the European Food Safety Authority (EFSA) as follows:

“Although EFSA has identified potential concern from mineral oils in food, it acknowledges considerable uncertainties in assessing any potential risks. As in the Food Standards Agency’s recent survey, today’s opinion does not identify any specific food safety concerns”.

Packaging produced for example in the UK according to the British laws and Good Manufacturing Practice could be hampered to be placed on the German market. **This means a clear infringement of free trade.**

We already issued a complaint at the German Ministry and will now lodge a complaint at EU-Level.

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