Subject: New Italian legislation on waste

Decree Law No 138 of 8 July 2002, which was adopted as law by the Italian parliament on 19 July, provides an ‘authentic interpretation’ of the definition of waste appearing in Article 6, paragraph 1, of Legislative Decree No 22/97 ('Ronchi' Decree), which transposed into Italian law amended Directive 75/442/EEC on waste.

The criteria used in the decree for interpreting the Community definition of waste run counter to the Community directive as repeatedly interpreted by the Court of Justice and have the effect of significantly restricting the scope of the directive in Italy.

What measures will the Commission take vis-à-vis the Italian Government, in its capacity as guardian of the Treaties, to remedy this failure by Italy to meet its obligations under the EC Treaty?

Answer given by Mrs Wallström on behalf of the Commission

(4 September 2002)


The Commission, acting in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC as amended, has drawn up a list of wastes belonging to the categories listed in Annex I (3).

The Court of Justice has repeatedly provided guidance on the interpretation of the waste definition, and has clarified, inter alia, that the definition of waste cannot be interpreted as excluding substances which are capable of economic reutilisation (4); that the system of supervision and control established by Directive 75/442, as amended, is intended to cover all objects and substances discarded by their owners, even if they have a commercial value and are collected on a commercial basis for recycling, reclamation or re-use (5); that substances forming part of an industrial process may constitute waste within the meaning of Article 1(a) of Directive 75/442, as amended (6); that the method of treatment or use of a substance does not determine conclusively whether or not it is to be classified as waste. What subsequently happens to an object or a substance does not affect its nature as waste, which, in accordance with Article 1(a) of the Directive, is defined in terms of the holder discarding it or intending or being required to discard it; in addition, the effectiveness of Article 174 of the EC Treaty and the Directive would be undermined if the national legislature were to use modes of proof, such as statutory presumptions, which had the effect of restricting the scope of the Directive and not covering materials, substances or products which correspond to the definition of waste within the meaning of the Directive (7).

Lastly, on 18 April 2002 the Court stated that the term ‘discard’ must be interpreted in light of the aim of Directive 75/442 which, according to its third recital, is the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste, and the aim of Article 174(2) EC, which provides that Community policy on the environment is to aim at a high level of protection and is to be based, in particular, on the precautionary principle and the principle that preventive action should be taken. It follows that the concept of waste cannot be interpreted restrictively (C-9/00).
In light of the contents of Article 1 of Directive 75/442/EEC on waste as amended, and of the interpretation of this provision provided by the Court of Justice, the Italian Decree No 138 of 8 July 2002, which, according to the description provided by the Honourable Member, provides criteria on the interpretation of the terms ‘intention to discard’ and ‘obligation to discard’ and as a consequence is liable to restrict the scope of application of Directive 75/442/EEC, could be in breach of the Community waste legislation.

The Commission will take the appropriate steps in order to verify the compliance with Community law in this specific case. Should the Commission identify a breach of Community law in this specific case, it would not hesitate, as the guardian of the Treaty, to take all necessary measures conferred on it by the Treaty, including infringement procedures under Article 226 of the EC Treaty, in order to ensure compliance with the relevant Community law.

WRITTEN QUESTION P-2395/02
by Hiltrud Breyer (Verts/ALE) to the Commission
(30 July 2002)

Subject: Testing for illegally irradiated, unlabelled food products by Member States

A UK Food Standards Agency survey revealed in June 2002 that products sold in the UK are being irradiated in breach of food regulations. Herbs, spices, dietary supplements, prawn and shrimps were tested. None were labelled as irradiated, in breach of EU and UK law. 42% (58 out of 138) of the dietary supplements had been irradiated or contained an irradiated ingredient. Five prawn and shrimp samples and one spice sample had also been irradiated. In the UK, only correctly labelled irradiated herbs and spices are currently permitted.

Unregulated food irradiation is a potential health hazard, and breaches of irradiation labelling laws mislead consumers. The sale of illegally irradiated, unlabelled foods has occurred repeatedly within the EU in recent years, despite the fact that detection tests are now available. Such foods could still be on sale to consumers in many EU Member States, especially in those States that conduct no irradiation detection surveys.

What action is the Commission planning to take following the alarming results of the FSA survey?

How does the Commission make sure that the demands of Directives 1999/2/EC (1) and 1999/3/EC (2) are being fulfilled by the Member States?

Is the Commission able to give information on the number and results of irradiation detection surveys in the Member States?