

April 2025

## **Mineral oils: take aways from Member States contacts with European Commission about the legislation in development**

### **Context**

**This briefing provides an overview of the information obtained by foodwatch international about the ongoing discussions between Member States and the European Commission regarding the effort to include mineral oil hydrocarbons (MOHs) in the scope of the main EU regulation on food contaminants (Council Regulation 315/93/EEC).**

In early 2024, the European Commission issued a first draft proposal for a regulation, which was shared with stakeholders for comments<sup>1</sup>. The aim is to introduce regulatory measures through the establishments of maximum limits for mineral oils aromatic hydrocarbons (MOAH) and monitoring obligations for mineral oils saturated hydrocarbons (MOSH). Since then, the discussions between the European Commission and Member States on the evolution of this proposal have taken place behind closed doors, with very limited information filtering out towards the public (under the so-called comitology procedure)<sup>2</sup>.

Because it has been so difficult for third-party observers to obtain up-to-date information about those developments, in October 2024, foodwatch international filed a freedom of information request to the European Commission (FOI request), asking for access to documents about exchanges with Member states on this file since 1<sup>st</sup> January 2024<sup>3</sup>.

In February 2025, foodwatch finally received the requested documents in several batches – 33 documents (with a mix of full, partial, and no disclosure), illustrating exchanges with 8 countries (France, Italy, Belgium, the Netherlands, Germany, Luxemburg, Spain, Ireland).

**This briefing provides an overview of the interesting insights from some of the documents received. This includes Member States' comments and positions on the regulation in development, as well as on the stakeholders' attempts to influence it.**

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<sup>1</sup> [foodwatch at EU stakeholder forum on Mineral Oil limits in food: There can be no exceptions or delays! | Foodwatch EN](#)

<sup>2</sup> [Catalogue - European Commission ; 073ffc30-a422-47e8-abdb-81028ce18295\\_en](#)

<sup>3</sup> [Mineral oils contamination in food - a Freedom of Information request to Health and Food Safety - AsktheEU.org](#)

### **BOX: Information about state of the proposal in preparation and foodwatch's position**

Because the comitology process, under which the preparation of the regulation on the contamination of food by mineral oils falls, is taking place behind closed doors, there are no publicly available documents that would allow third-party observers to get real-time information about the development of the proposal.

In December 2024, a leaked version of this proposal (dated from June) was obtained by foodwatch and released on our website<sup>4</sup>. While foodwatch welcomes that regulatory steps are finally in preparation to limit the contamination of mineral oils in food, it has expressed concerns that the draft lacks teeth to fully protect consumers from it. In particular, we highlighted that the proposed maximum limits for certain foodstuffs (e.g. vegetable oils) are sometimes too high and that the proposed transition periods for those products are too long.

In general, the proposed approach combining fixed maximum limits for certain foodstuffs and the calculation of limits for final products as they are found on the shelves seem complicated. It also deviates from the earlier approach recommended by Member States in their 2022 statements, with one harmonised approach applying to all foodstuffs based on the fat content of the products<sup>5</sup>. At the time, foodwatch already warned that this approach would not be equivalent to a zero-tolerance policy for mineral oils' contamination in food<sup>6</sup>. This approach should therefore be the minimum basis for a future regulation.

More information on the timeline of foodwatch's campaign on mineral oils can be found on our website<sup>7</sup>.

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<sup>4</sup> [Leaked EU proposal on mineral oil contaminants: foodwatch calls for stricter consumer protection | Foodwatch EN](#)

<sup>5</sup> ScoPAFF statement, April 2022: [https://food.ec.europa.eu/document/download/fc82efb9-e180-45ff-8202-3df60ec00fb2\\_en?filename=cs\\_contaminants\\_catalogue\\_moah\\_ntfs\\_js\\_0.pdf](https://food.ec.europa.eu/document/download/fc82efb9-e180-45ff-8202-3df60ec00fb2_en?filename=cs_contaminants_catalogue_moah_ntfs_js_0.pdf)

ScoPAFF statement, October 2022: [https://food.ec.europa.eu/document/download/e550e01d-98f4-4cbc-9fa0-6fc8faf544d2\\_en?filename=cs\\_contaminants\\_catalogue\\_moah\\_20220421\\_ntfs\\_js-clarif.pdf](https://food.ec.europa.eu/document/download/e550e01d-98f4-4cbc-9fa0-6fc8faf544d2_en?filename=cs_contaminants_catalogue_moah_20220421_ntfs_js-clarif.pdf)

<sup>6</sup> [European Commission Committee proposes limits for mineral oils in food products – foodwatch: crucial step for food safety, but no detection at all should be tolerated | Foodwatch EN](#)

<sup>7</sup> [Mineral oil in foods – timeline of a campaign | Foodwatch EN](#)



### **Main takeaways: what have we learnt?**

- **The European Commission's proposed approach to limit the contamination of food by MOAH (a combination of maximum limits on commodities and final products) has raised questions among Member States.**
- **Several Member States appear to have shared somehow similar concerns as foodwatch** regarding the proposal on the table, namely:
  - Concerns about the complexity of the approach for calculation of maximum limits of MOAH in final products.
  - Concerns about difficulties to enforce the proposal at national level and potential legal issues.
- **Some Member States' positions seem strongly influenced by specific industry sectors.**
  - Italy and Spain highlight exclusively the issue of maximum limits of MOAH for vegetable/olive oils as well as cocoa producers (for Italy) and include sometimes documents coming directly from industry associations.
- **The level of transparency varies a lot from one country to another.**
  - Access to the documents from the French authorities was fully denied, while all the other Member States' documents were disclosed at least partially.

## Insights from the documents in details

### The current European Commission's approach to the regulation is questioned by Member States

One of the main relevant takeaways from the documents is that, for MOAH contamination, several Member States seem to share foodwatch's concerns about the overall complexity of the European Commission's proposed approach combining maximum limits for commodities/raw materials, calculations of limits for finite composite products, as well as indicative limits for products that will not be covered by maximum limits in the future (e.g. processed vegetables, fruits, meats, fish, eggs...)

- **The German authorities** explicitly state that they *"are not happy with the proposals"* and they hope that their *"concerns will be considered"* (doc 20). *"The proposed rule is unnecessarily complicated. What maximum levels should apply to the abundance of compound foods on the market is unclear in many cases"* (doc 21). *"In summary, it is not comprehensible for Germany why an already established and pragmatic approach to the assessment of mineral oil contents in composite foods should be replaced and significantly complicated by the now proposed approach."* (doc 21)
- **The Dutch authorities** generally agree with the approach but have a whole list of questions and remarks. They ask the Commission to reflect on the potential difficulties arising from the combination between specific maximum limits for certain foodstuffs and indicative limits for products without such established maximum limits (doc 25).
- **The Luxemburgish authorities** agree *"to setting ML for the categories laid down in the proposal. We also support the setting of indicative levels for some commodities. However, we believe that there will be challenges to calculate the applicable MLs for compound products when choosing option 3"* (doc 24). They further state that *"as already mentioned in previous meetings, LU currently still is in favour of option 2. Combined with an analysis to determine the total fat content of the sample, a clear ML would exist for each product. Especially when it comes to enforcement actions to be taken by the risk managers, option 2 seems to be the easiest to allow harmonized risk management across the European Union"*. (doc 24)

### Member States' concerns regarding implementation of the proposal

Several concerns have arisen regarding the complexity of the approach proposed by the Commission when it comes to calculating maximum limits of MOAH in final food

products that consumers find on the shelves as well as the real-life implementation of controls once the regulation comes into force. This includes concerns in case of lack of information on the recipe of the food product and potential challenges from industry players if the Member States decide on conservative maximum limits out of precaution.

For instance:

- **The Luxemburgish authorities** raise very practical concerns when it comes to calculating limits to composite products with several ingredients, taking the example of a chocolate chip cookie with nuts:

*“Sometimes the composition does not allow to calculate a ML for each ingredient for which a ML is proposed.*

*It will be complicated to calculate the overall applicable limit as it is not always clear what ML to apply to each ingredient (chocolate, butter, flour - which also need to be calculated first based on raw materials).*

*Should the legal ML for composite foods be the sum of the proposed MLs for each ingredient?*

*What if all ingredients are just below the calculated ML, however, due to the sum of each individual ingredient, the final composite product could be non-compliant. How to make sure the MLs for the ingredients are sufficiently low to guarantee that compliant processed products can be produced?*

*Competent authorities will be unable to identify THE ingredient that is not compliant but can only assess the composite product. FBOs [food business operators] will claim that their ingredient is safe and that another ingredient is the source of MOAH or that the contamination was introduced during the production process. Although the responsibilities also clearly lie within the remits of the food business operators, it may nonetheless lead to some challenging requests to the competent authorities as regards this matter.*

*We have to be careful to avoid making the calculations too complicated - as this could also potentially lead to the fact that less products with a complicated composition are sampled.” (doc 24)*

- A detailed comment regarding fat contents of some products from **the Irish authorities** also translates important remaining questions for the implementation of the Commission’s calculations of limits for finite products: *“The reference to “fat content” in each of the texts would suggest that the actual fat content would have to*

*be determined before the limits could be applied. IE suggests to change this to “declared fat content” because of the difficulty of determining the actual fat content in the range of foods and ingredients listed” (doc 22).*

- **The Dutch authorities** raise concerns about potential legal issues arising past the introduction of the regulation, since lower maximum limits (from the temporary ScoPAFF 2022 statements) have been implemented so far, and products have been withdrawn from the market on that basis (doc 25).

### **Influence of certain industry sectors on some Member states’ position**

- **Some of the most striking documents relate to positions of and communications from Italy and Spain.** Both countries focus their comments on the proposals on the potential impacts foreseen for the specific sector of vegetable oils, in particular olive oils, as well as cocoa production for Italy, asking for derogations and further transition periods for the new regulation.
- The communications from the **Italian authorities**:
  - o Indicate that they themselves asked the oil producers for their opinions on the planned regulation, which they share with the Commission and other Member States for further discussion. This can give an impression that the authorities’ position is not primarily informed by their expertise on the topic and the public health protection interest, but rather by the opinions of those industry players: *“Italy asked the main producers of vegetable oils to express their opinion, considering that Italy is one of the largest producer in this sector. Most of the responding associations underline the need to postpone the introduction of LM”* (doc 14). The reasons outlined are gathering more data on some toxicological impacts of certain MOAH, on the sources of contamination, or introduce new analytical methods.
  - o Mention that: *“MOH contamination is an issue that can affect various sectors of Italian food production (from vegetable oil to cocoa products) and therefore the search for mitigation measures and optimisation of analytical methods is considered of great importance. While understanding the importance and the need to introduce maximum limits, Italy considers that the timeframe of the Draft Regulation is difficult to implement, at the moment”* (doc 18). The requested additional transition time is 18-24 months.

- Forward entire position papers of industry federations such Federalimentare (The Italian Federation of the Food industry, doc 8), Federolio (The Italian Federation of Olive Oil trade, doc 9), Assitol (The Association of the Italian Oil Industry, doc 17) and the European Cocoa Association (ECA, doc 16).
  - Regarding MOSH, it is also interesting that while the authorities agree with the Commission's proposal to monitor their levels, they question the introduction of indicative limits to do so, mostly again based on industry's arguments on the matter (Federalimentare, doc 8, asking for no indicative limits; Assitol, doc 7, and Federolio doc 9 asking for exclusion of MOSH from the scope of the regulation). It is also striking that the documents of the various industry federations are very similar to each other in structure and arguments.
- **The Spanish authorities'** position seems to be mainly based on information transmitted to them by olive oils' producers:
- *"As commented in the meeting, given the olive oils producers have told us that they have the firm intention of implementing GMP over the coming years, we would like to request the postponement of the current proposed levels for MOAH – for olive oil in general and pomace oil – from 2028 onwards."*
  - *"Considering the data received and once analyzed them, we believe that the MOAH levels in vegetable oils, and more specifically olive and olive pomace oils, would really need more discussion and longer transition times"* (doc 32).
  - The documents do not allow us to know if other comments on the details of the regulation in preparation have been raised towards the European Commission.

### **Unequal level of transparency among Member States**

As can be seen from the recapitulative list of documents made available to foodwatch through the FOI request (see List of Documents), the level of disclosure about Member States' comments to the Commission varies greatly.

- **The French authorities** refused the disclosure of 4 documents in their entirety, without any reason being granted. Yet the title of the documents suggest that the latter would have been informative regarding France's position and its evolution over the months ('FR comments and questions'; 'FR SANTE PLAN 2023 2727-Rev.0'; 'FRSANTEPLAN2023-2345-ANNEX-MLsMOAH-Rev.2'; 'FRSANTE\_PLAN\_2726\_2023-ANNEX-Rev.3'; 'FR SANTE\_PLAN\_2726\_2023-TEXT-Rev.3'). It is worth noting that



requests from foodwatch France asking their authorities to clarify their position about the development of the EU regulatory efforts on mineral oils in food have remained unanswered.

- **When documents were available from other Member States over that period (the 7 Member States mentioned earlier), partial disclosure was granted.** The erased information either related to personal information of civil servants, or topics other than that covered with the request.
- **Because the EU Comitology process (under which these discussions fall), involving expert discussions between the EU Commission and Member States is so opaque,** it is impossible to know if more documents about this dossier exist and what are the positions and comments of Member States that did not submit comments in writing outside of meetings that would fall in the period of our request. To date, the FOI request remains the only (and currently best) available tool for third party observers to get information about the discussions.