Commission Regulation (EU) No 116/2010 of 9 February 2010 amending Regulation (EC) No 1924/2006 of the European Parliament and of the Council with regard to the list of nutrition claims (Text with EEA relevance)

COMMISSION REGULATION (EU) No 116/2010

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods[(1)], and in particular Article 8(2) thereof,

Whereas:

(1) Article 8(1) of Regulation (EC) No 1924/2006 states that nutrition claims made on foods shall be only permitted if they are listed in its Annex, which sets out also their conditions of use.

(2) Regulation (EC) No 1924/2006 also provides that amendments to that Annex shall be adopted where appropriate, after consulting the European Food Safety Authority (EFSA), hereinafter referred to as the Authority.

(3) Prior to the adoption of Regulation (EC) No 1924/2006, the Commission asked the opinion of the Authority on nutrition claims and their conditions of use concerning omega-3 fatty acids, monounsaturated fat, polyunsaturated fat and unsaturated fat.

(4) In its opinion adopted on 6 July 2005[(2)], the Authority concludes that omega-3 fatty acids, monounsaturated fat, polyunsaturated fat and unsaturated fat have important roles in the diet. Some unsaturated fats such as omega-3 fatty acids are sometimes consumed at a level lower than recommended. Therefore, nutrition claims identifying foods being source of these nutrients, or being rich in these nutrients could help consumers to make healthier choices. However, those nutrition claims were not included in the list established in the Annex to Regulation (EC) No 1924/2006, as adopted by the European Parliament and the Council, as their conditions of use could not yet be clearly defined.

(5) Those conditions of use having been clarified, taking also into account an opinion of the Authority on labelling reference intake values for omega-3 and omega-6 fatty acids adopted on 30 June 2009[(3)], it is, therefore, advisable to include the claims concerned in the list.

(6) Concerning the claims 'Source of omega-3 fatty acids' and 'High in omega-3 fatty acids', the conditions of use should distinguish between the two types of omega-3 fatty acids, which have different physiological roles and for which different levels of consumption are recommended. Furthermore, those conditions of use should establish a minimum quantity requested per 100 g and 100 kcal of product in order to ensure that only foods providing a significant amount of omega-3 fatty acids at their level of consumption can bear those claims.

(7) Concerning the claims 'High in monounsaturated fat', 'High in polyunsaturated fat' and 'High in unsaturated fat', the conditions of use should require a minimum unsaturated fat content in the food, and, consequently, ensure that the claimed amount always corresponds to a significant amount at the level of consumption attainable through a balanced diet.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1924/2006 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 9 February 2010.

For the Commission

The President

José Manuel BARROSO