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Deutschland

POSITION of the food industry on the notification of a German “Mineral oil ordinance”

(22nd ordinance amending the Consumer Goods Ordinance)

TRIS 2020/510/D dated 17 August 2020

WTO Notification G/SPA/N/DEU/12 (21-2349) dated 22 March 2021

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The German Federal Ministry of Food and Agriculture (BMEL) has notified the draft of a German “Mineral Oil Ordinance” in August 2020 in the European TRIS procedure and currently in the WTO procedure. According to the draft regulation, food packaging made of paper and board with recycled content is to be provided with barriers that absolutely prevent the possible entry of certain mineral oil constituents (MOAH).

This regulatory intention is sharply criticised by the German and European food and packaging industries because it is pursuing an uncoordinated, outdated and scientifically unfounded national approach unique in Germany. Imports of packaging materials and paper-packaged foodstuffs to Germany will also be affected.

The sector therefore calls on the states to press within the WTO proceedings in order to protect their economic circles and the unhindered movement of goods.

European Commission and the **governments of the Netherlands, Italy and Spain** have taken a clear position in the TRIS procedure against Germany's advance measures. They see a market impeding and distorting of competition if law in Germany regulates high requirements for paper packaging. As alternative they support a uniform, proportionate and scientifically guided approach to dealing with mineral oil contaminants such as MOAH that serves the real need for consumer protection.

The main points of criticism are:

The German ordinance project is outdated and ignores the current level of knowledge and good manufacturing practices:

- The complex routes of mineral oil components in the process chains of food and packaging production require many differentiated approaches to solutions and not only measures relating to paper and cardboard packaging.
- Effective aids (toolboxes) exist for the treatment of all potential routes of entry into food, raw materials, packaging materials and components at all relevant stages of the value added chain, which have led to proven success in minimization.



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- “MOH benchmark levels” jointly drawn up and recommended by business and food control and inspection organizations are up to date and recognized as a basis for assessment.
- Occurrence of MOAH specifically in packaging materials made of paper and cardboard is demonstrably not a relevant problem for consumer health protection.

The German ordinance damages the European and international food and packaging industry and trade with packaged foods:

- Suppliers and importers of goods for Germany will be forced to change packaging and certify packaging material.
- Cost consequences for examinations and certifications will also permanently burden companies in European countries and third countries.
- The recognition and free marketing of products conforming to EU law is not provided for in the regulation; the special requirements in Germany are mandatory.

The proposed German ordinance contradicts the European way of shaping sustainability strategies and uniform consumer protection:

- Credible consistent sustainability policy in the sense of the Green Deal is broken; barrier obligation leads to additional use of packaging materials, to the use of composite materials and hinders recycling possibilities.
- Priority should be given to the amendment of the EU framework regulation for food contact materials and a uniform European, science-based level of consumer protection.

A detailed statement and notes on the ordinance text are available from the food industry and will be provided on request. <mailto:staehle@lebensmittelverband.de>

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