

# **Food Irradiation in Sweden: From a National to a Global Concern**

The Swedish experience in banning food irradiation and prospects for an international campaign

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## **Introduction**

In 1995, Sweden became a member of the European Union. We had more freedom before this date to make national legislation and stop unwanted foods from entering across our borders. As we joined the EU, we had to agree to harmonise our legislation in order to facilitate free trade on the European market. Also, in 1995, Sweden joined the World Trade Organisation. There is concern that we have less and less democratic influence over the decision-making regarding food safety. This can affect citizens directly. Globalisation has created interest in participation in for example the Codex Alimentarius Commission. Consumer organisations need to be involved in Codex in order to understand where, when and how we can improve rules that are of great concern to many consumers.

## **Early experiences with food irradiation**

Food irradiation was never introduced in Sweden. After an intense debate, not a single food company chose to use this technique. Consumer organisations and politicians found common ground in the discussion in the early 1980ies and the process was banned. There are two facilities but they are only used for the sterilization of medical supplies, and to a small extent, for special foods used in hospitals.

The debate focused on several problems. Consumers were never convinced that food irradiation was a good answer to any important food hygiene problems. Consumers were also concerned - and still are! - about unanswered scientific questions on possible risks. Above all we remain concerned about the potential for abuse of irradiation to sell sub-standard food on consumers. In several other European countries as well, the debate was intense. There was a major incident in which spoiled shrimp were denied entry to the UK, so the ship sailed across the channel to an irradiation facility in Holland, the shrimp were irradiated, then the ship went back to the UK, and the shrimp passed bacteriological tests so they were allowed entry and sold to British consumers. However, the whole scam was revealed to the media by a suspicious inspector. For several years after this European consumer organisations referred to irradiating food to clean it up for sale as "Dutching" in honor of that Dutch irradiation facility.

In 1996, we agreed to the change in legislation that allowed irradiation of herbs and spices in Sweden. Consumer organisations did not consider this a major problem and we have not experienced that the spice industry started irradiating spices more than before. However, Swedish authorities have occasionally tested and detected irradiated foods such as a shipment of poultry from Italy two years ago. The shipment was immediately sent back in accordance with Swedish legislation.

## **EU food safety concerns**

The EU White Paper on Food Safety 1) states that where implementing powers have been conferred to the Commission, for example irradiated foods, the current decision-making process for transforming scientific advice into legislation or decision is in some cases not satisfactory. Harmonisation is a slow process. By December 2000, EU was supposed to have completed the amendment of Directive 1999/3/EC and also to have completed the list of irradiation facilities authorised in the Member States and those in third countries which have been approved by the EU. The process was delayed when government officials from one EU member country asked the Commission if they had consulted with consumers before pressing forward with decisions. They had not.

On 27 September 2000, DG Sanco sent a consultation paper 2) on food irradiation to 5 European consumer organisations and 8 European industry associations, addressing in particular the question which foodstuffs should be authorised for irradiation treatment in the Community. The paper was also put on the web site of DG Sanco to give other interested parties the possibility to comment. A total of 32 comments on this paper were received and published on the EU website. Needless to say, most comments were predominantly negative about food irradiation. Thus we are still wondering what will be the real result of the harmonisation within EU, and its special implications for Sweden.

## **International efforts to promote food irradiation**

Meanwhile, work has continued internationally to promote food irradiation. Of special interest to Sweden is the ongoing work by WHO. In January 1998, WHO issued a report 3) on the conclusions of a joint FAO/IAEA/WHO study group on high dose irradiation above 10 kGy, which stated that "food irradiated to any dose appropriate to achieve the intended technological objective was both safe to consume and nutritionally adequate. Hence no upper limit needed to be imposed for food irradiation. This WHO study group was also of the opinion that the application of risk assessment in the currently accepted sense was not appropriate to the safety assessment of foods preserved by high dose irradiation and suggested, that in this context the concept of substantial equivalence may be more appropriate."

As there was no consumer representation at the so-called study group meeting, which in itself is an unusual arrangement, we remain unconvinced that the report is reliable. We also have no way of knowing if the so-called experts were independent and not biased, but we do not doubt that the conclusion would have been quite different had consumer organisation observers participated. Consumers understand the value of risk assessment and agree that it can be used to improve food safety. On the contrary, the concept of substantial equivalence is not accepted by consumer organisations, but rather seen as a way for certain industries to promote new technologies, like genetically modified foods, without any proper risk assessment.

On its website 4), WHO also states: "...the application of 'risk assessment' in the currently accepted sense is not appropriate to the toxicological assessment of foods preserved by high-dose irradiation. In this context, the concept of 'substantial equivalence' may be more appropriate. High-dose irradiated foods are indeed as safe as food materials sterilized by thermal processing, which humans have been eating for more than a century." This is a very disturbing conclusion from a health perspective.

In my view, it is also extremely worrying because it has implications for our ability to legislate and keep irradiated foods from retail shelves. Labelling may also be affected. The WHO conclusions have implication on our right to demand and get legislation for irradiated foods, and makes an international campaign even more important.

## **Codex Alimentarius**

To complicate matters even more, Codex Alimentarius has introduced food irradiation in the committee called CCFAC (Codex Committee for Food Additives and Contaminants). The good news is that Consumers International participates as an observer in CCFAC. Regarding the CCFAC, the discussion on irradiation using more than 10kG started in 1999. WHO held a session, which was supposed to be very scientific, but turned out to be more like a sales campaign. The representatives from WHO were so very eager to introduce this method for reducing pathogens, specially in minced meat. The representative from CI presented our considerations regarding this issue, but there was not a clear feedback from the meeting.

Consumers International has been calling for the use of factors other than science to be clarified at Codex. This is quite relevant for food irradiation. Obviously, many other factors do play a prominent role in the decision making involved in the setting of safety standards. Consumers International has also called for the use of the Precautionary principle, as decision-makers should be allowed to "err on the side of public health protection when formulating standards in cases where there is scientific uncertainty, conflicting scientific evidence, or where the potential public health consequences of making an error are significant". 5)

## **SPS: World Trade Organization rules**

Should WHO and Codex come to the conclusion that food irradiation is safe, and that risk assessment is "not appropriate", and that irradiated foods should be considered "substantially equivalent" to normal foods, we will of course have a trade problem. This follows because the Sanitary and Phytosanitary rules of the WTO are quite specific about what countries can and cannot do.

Article 3 of the SPS agreement deals with "harmonisation", including how countries should introduce legislation that result in a higher level of sanitary protection than if it was simply based on the relevant international standards, such as a Codex standard.

Article 5 of the SPS agreement deals with risk assessment. Article 5.1 of the SPS agreement states: "Members shall ensure that their sanitary or phytosanitary measures are based on an assessment... of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by relevant international organisations." The SPS agreement also strongly suggests that Codex should be the proper place for any standard-setting.

## **A Riddle Within a Paradox**

I would like to call the SPS agreement a riddle within a paradox. On the one hand, countries have agreed to promote trade and harmonise legislation. On the other hand, the SPS agreement gives countries some room to maneuver, while making rather fuzzy provisions about how this can be done. As an example, let me briefly discuss the long debate over the EU ban on meat from cattle given hormone injections.

As you may recall, the United States went to the WTO Dispute Panel and basically got the thumbs up, meaning EU would have to lift its ban. However, the WTO has an Appellate Body, which is seen by some as more attuned to the political and social context of the SPS agreement. Actually, the Appellate Body delivered quite an interesting report 6) on the Panel's decision. The Appellate Body reversed two of the three conclusions of the Panel in the hormone case. The confusion thus seemed overwhelming: The European Commission even went as far as claiming that this was a victory for European consumers. 7)

Interestingly, the Appellate Body report recognizes that the EU has a "sovereign and autonomous right to establish a level of sanitary protection for their own consumers which is higher than the level resulting from international health standards." It also agrees with the EU that science alone

cannot do the job. The assessment must also cover risks in human societies as they actually exist in the real world where people live, work and die.

The Appellate Body did not agree with the EU regarding the details of how to harmonize its risk assessment, i.e. how to interpret Article 3 and Article 5 of the SPS rules. The language is complex and you will find things like "members must comply with" or "base on" or "conform to" the SPS rules. If there is ever a case related to food irradiation, you can expect to hear a lot more about these enigmatic articles.

## Discussion and Conclusions

I was temporarily encouraged by the WTO Appellate Body report on the hormone case, while I remain very concerned about any future WTO dispute case against a EU ban or restriction on food irradiation. EU certainly need to build a stronger risk assessment case and preferably start doing new studies. We also may need to remember that not everyone agrees on the role of Codex. It is not clear to me if national legislation should be "based on" Codex standards, or if it is enough to "take into account" the standards. At any rate, it is becoming increasingly difficult to ban certain foods in the old-fashioned democratic and national sense. Some have argued, probably quite rightly, that the SPS agreement, as it is being implemented, is resulting in "downward harmonisation" of health and safety standards. 8)

There is also evidence that the WTO's interpretation of the SPS agreement is the problem, as it undermines the right of governments to establish and set appropriate levels of protection against risks. Others, however, think such concerns are "misplaced". In fact it has been argued that there is still quite a large latitude afforded to nations in setting their own food safety standards that nearly all bona fide attempts to protect consumers will be consistent with WTO rules. 9)

For Sweden, and for Swedish consumers, this is all very hard to swallow. I expect more and more consumers will demand political action as they find out what is happening to our global food supply, including the use of food irradiation, genetically modified organisms, hormones and antibiotics, and so on. To conclude, let us hope that this meeting and our international campaign will send a message to both food producers and legislators: consumers do not want food irradiation and we intend to fight for our democratic right to ban it.

## References:

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