

COMMISSION OF THE EUROPEAN COMMUNITIES

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Amendments to the Proposal for a Council Directive
amending for the fifth time Directive 73/241/EEC
on the approximation of the laws of the Member
States relating to cocoa and chocolate products
intended for human consumption

(Submitted by the Commission to the Council in
accordance with the second paragraph of Article
149 of the Treaty)

Amendments to the proposal for a Council Directive amending for the fifth time Directive 73/241/EEC on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption

1. SUMMARY

This amended proposal¹ is intended to give effect to the Opinion delivered by the European Parliament at its meeting of 10 April 1978². The Commission therefore adopts most of the amendments desired by the European Parliament, while proposing that their presentation be changed slightly.

On the other hand, the Commission proposes to take into account, at the drafting level, the fact that the Directive could not have been adopted before 1 January 1978, as would have had to be the case.

1.1 Phosphoric acid

The Commission accepts the wish of the European Parliament that this acid should cease to be used from 1 July 1979. Unlike the Parliament, however, it does not feel that a further examination of the situation before this date would lead to a change of view. The Commission therefore proposes that no provision be made for reviewing the situation with regard to phosphoric acid.

1.2 Flavouring substances

The Commission is unable to say how long it will take to study the list of permitted flavouring substances for foodstuffs, as the field is extremely complex. It would certainly not be able to complete a review of the present situation before 1 July 1979, as the European Parliament wishes.

In order to be realistic, the Commission therefore proposes that no final date for the use of flavourings which are not generally permitted be included in the Directive, but that such a decision be postponed until Community rules are brought in to cover the whole of the flavourings sector.

¹Original proposal of 9.12.1977 - COM(77)658 final, OJ No C 8, 10.1.1978, p. 2

²Report by Mr. Lamberts, EP 52.646 final

1.3 Emulsifiers

These are listed in Annex II to Council Directive 74/329/EEC of 18 June 1974 on the approximation of the laws of the Member States relating to emulsifiers, stabilizers, thickeners and gelling agents for use in foodstuffs¹. Under Article 3(1) and (3) of that Directive Member States may authorize the use of emulsifiers for five years after its notification², and the Council may decide to transfer them to the Community list before the end of this period.

For reasons of consistency, the Commission proposes that the same text be applied to cocoa and chocolate products. A further examination of this question will, of course, be based on the requirements of health protection and technology.

1.4 Entry into effect of the amendments

Annex II to Directive 73/241/EEC should have been amended before 1 January 1978 (paragraph 2(b) of Annex II).

As this deadline could not be met, it should be specified that the amendments are to take effect retroactively.

2. AMENDMENTS

2.1 The fifth and sixth recitals are amended to read as follows:

"Whereas the aforementioned Annex II provides in paragraph 2(b) for the possibility of including these substances in Annex I before 1 January 1978; whereas, however, a new examination of the situation did not allow such a decision to be taken;

Whereas there is no longer a technological need for the use of phosphoric acid as a neutralizing agent in cocoa products and the use of this product can therefore be abolished after a period of technological adjustment".

¹OJ No L 189, 12.7.1974, p. 1

²i.e. until 20 June 1979

2.2 Article 4 is amended to read as follows:

"Article 4

In Annex II, paragraph 2 is amended to read as follows:

"2(a) This Directive shall not affect those provisions of national laws in force at the time of its notification and authorizing the use of:

- (i) phosphoric acid as a neutralizing agent in cocoa products alkalized in accordance with Annex I(2),
- (ii) flavouring substances other than those referred to in Annex I(5)(a) in the cocoa and chocolate products referred to in that paragraph,
- (iii) polyglycerol polyricinoleate, sorbitan monostearate, sorbitan tristearate, polyoxyethylene (20) sorbitan monostearate and ammonium salts of phosphatidic acids in the chocolate and cocoa products referred to in the first subparagraph of Annex I(6).

(b) The derogation provided for:

- (i) in paragraph 2(i) shall end on 30 June 1979,
- (ii) in paragraph 2(ii) shall end with the entry into force of Community rules listing flavouring substances which may be used in foodstuffs,
- (iii) in paragraph 2(iii) shall end on 20 June 1979; before that date, however, the Council may, in accordance with the procedure laid down in Article 100 of the Treaty, include the substances specified in paragraph 2(iii) in the first subparagraph of Annex I(6)."

2.3 The following Article 4a is inserted in the proposal for a Directive:

"Article 4a

Article 4 shall take effect on 1 January 1978."