

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(86) 613 final

Brussels, 12 January 1987

## COUNCIL DIRECTIVE

amending Directive 79/693/EEC on the approximation of  
the laws of the Member States relating to fruit jams,  
jellies and marmalades and chestnut puree

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(submitted to the Council by the Commission)

COM(86) 613 final

EXPLANATORY MEMORANDUM1. INTRODUCTION

1.1. This proposal for a Directive follows on from the Communication entitled "completion of the internal market : Community legislation on foodstuffs"<sup>1</sup>, and in particular sections 31 and 43 thereof. Its main purpose is to delegate to the Commission the management of the "acquis communautaire" relating to fruit jams, jellies and marmalades and chestnut puree as governed by Council Directive 79/693/EEC of 24 July 1979<sup>2</sup>.

With regard to the procedure to be used, the Commission has endorsed the "Declaration on the powers of implementation of the Commission" adopted by the Conference of the Governments of the Member States on the occasion of the signing of the Single European Act. The Declaration reads as follows :

"The Conference asks the Community authorities to adopt, before the Act enters into force, the principles and rules on the basis of which the Commission's powers of implementation will be defined in each case.

In this connection the Conference requests the Council to give the Advisory Committee procedure in particular a predominant place in the interests of speed and efficiency in the decision-making process, for the exercise of the powers of implementation conferred on the Commission in the field of Article 100A of the EEC Treaty".

This proposal comes under the Internal Market (Article 100 A) and the Declaration is, therefore, applicable. Thus paragraph 35(2) and paragraph 41(1) of document COM(83)603 final no longer apply.

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1 COM(85) 603 final of 8.11.85

2 OJ N° 205, 13.8.1979, p. 5.

1.2 Experience gained since the adoption of Directive 79/693/CEE has revealed the need for several amendments not caused by technical progress and for clarification of certain provisions whose interpretation is not clear. Since strictly speaking this does not amount to management of the "acquis communautaire", advantage should be taken of this proposal for a Council Directive to make the necessary amendments and clarification.

## 2. CONTENT OF THE PROPOSAL

### Article 1 (1)

The term "chestnut puree" used in the English version of the Directive does not make it sufficiently clear that the product concerned is in fact a sort of jam. It should therefore be specified that it is a sweetened product.

### Article 1 (2)

As stated in its communication "Completion of the Internal Market : Community legislation on foodstuffs" (see in particular sections 16-17 and 24-28), the Commission no longer intends to propose the adoption of directives containing quality specifications. It is therefore necessary to delete the second subparagraph of Article 3 (2) which provides for a measure of this kind with regard to low-sugar products.

### Article 1 (3)

The current text of the Directive provisionally leaves it to the Member States to decide whether a residual sulphur dioxide content exceeding 10 mg/kg (see Annex IV, 2 and 3) needs to be mentioned on the label. The Commission considers it justified to inform all consumers of the presence of sulphur dioxide in the products concerned on the understanding that it is generally accepted that values not exceeding 10 zg/kg may be ignored.

Article 1 (4)

The current text of the Directive authorising a tolerance for the labelling of sugar content is ambiguous. The new version makes it clear that this is a tolerance in absolute terms, which is necessary for technical reasons.

Article 1 (5)

The new Article 8a proposed by the Commission delegates to it management of the "acquis communautaire" in the field governed by the Directive.

Article 1 (6)

The adoption of identity and purity criteria for products and substances which may be added is an implementing measure that should be delegated to the Commission.

Article 1 (7)

On 20 December 1985, the Council adopted Directive 85/591/EEC concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption.<sup>3</sup> The horizontal nature of that Directive makes it superfluous to maintain a specific provision of the same kind in Directive 79/693/EEC.

Article 1 (8)

The new Article 13 as proposed here is intended to introduce the Advisory Committee procedure for the operation of the Standing Committee on Foodstuffs.

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3 OJ N° L 372, 31.12.1985, p. 50

Article 1 (9)

There is no need to maintain the specified period for the operation of the Standing Committee on Foodstuffs.

Article 1 (10)

The existing Article 15 (2) and (3) contains review clauses with regard to the derogations granted to Member States for the use of certain additives. The Commission now proposes that the case of these additives should not be settled specifically at present but should be dealt with in the more general context of the future Community regulations on food additives. This proposal is in line with the new approach to food legislation.

Article 1 (11), (12), (13), (14)

These are drafting changes which do not affect the substance of the Directive but should facilitate its interpretation.

Article 1 (15)

The Commission proposes that the addition of red fruit juices (to enhance colour) should be authorised not only in jams (of ordinary quality) as at present, but also in extra jams.

Article 1 (16)

Pursuant to Article 1 (3) of Council Directive 86/102/EEC of 24 March 1986,<sup>4</sup> amidated pectin has been put on the same footing as pectin since "in the light of recent toxicological investigations" the two substances "can be considered as equivalent" (seventh recital). This has to be taken into account in this Directive.

Article 2

The time limits provided for in this Article take account of Member States' legislative procedures and the need to dispose of stock existing at the time the new Directive is notified.

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<sup>4</sup> OJ N° L 88, 3.4 1986, p. 40

### 3 PROCEDURE

In the Commission's opinion, Article 43 of the Treaty is an adequate legal base for adoption of the proposed Directive. Consultation of the European Parliament is therefore required. The Commission proposes to the Council that the Economic and Social Committee also be consulted on an optional basis. The proposal concerns food legislation and the Commission has always advocated the need for the Council to have the opinion of economic and social circles in the Community in this field.

## II

*(Preparatory Acts)*

## COMMISSION

**Council Directive amending Directive 79/693/EEC on the approximation of the laws of the Member States relating to fruit jams, jellies and marmalades and chestnut purée**

*COM(86) 613 final*

*(Submitted by the Commission to the Council on 14 January 1987)*

*(87/C 25/07)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Council Directive 79/693/EEC<sup>(1)</sup>, as amended by the Act of Accession of Spain and Portugal, lays down a number of technical rules in its Annexes;

Whereas the future adaptation of these rules to technological progress is an implementing measure that is also of a technical nature; whereas its adoption should be delegated to the Commission so as to simplify and speed up the procedure;

Whereas the Advisory Committee procedure should be adopted for future action by the Standing Committee on Foodstuffs in the interests of decision-making speed and efficiency;

Whereas the Directive also requires certain amendments not caused by technical development;

Whereas with regard to the completion of the internal market it is not necessary to subject products with a low dry-matter content to Community arrangements;

Whereas it is necessary to acknowledge the right of all consumers to be informed of a significant sulphur dioxide residue in a product to which Directive 79/693/EEC applies;

Whereas Council Directive 85/591/EEC of 20 December 1985 concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption<sup>(2)</sup>, because of its general and horizontal nature, makes it unnecessary to maintain a specific provision on sampling and analysis in Directive 79/693/EEC;

Whereas in the present state of Community food legislation the situation of certain food additives, the authorization of whose use in jams and similar products is provisionally left to the Member States, must be reviewed not within the specific framework of Directive 79/693/EEC but in the wider framework of the general legislation on food additives;

Whereas there is no reason why the use of red fruit juices should not be authorized to enhance the colour not only of jams but also of 'extra' jams made from certain red fruits;

Whereas pursuant to Council Directive 86/102/EEC of 24 March 1986 amending for the fourth time Directive 74/329/EEC on the approximation of the laws of the Member States relating to emulsifiers, stabilizers, thickeners and gelling agents for use in foodstuffs<sup>(3)</sup>, amidated pectin has been put on the same footing as pectin; whereas Directive 79/693/EEC should therefore be amended accordingly;

Whereas advantage should be taken of this amendment to clarify the wording of certain provisions in Directive 79/693/EEC,

<sup>(1)</sup> OJ No L 205, 13. 8. 1979, p. 5.

<sup>(2)</sup> OJ No L 372, 31. 12. 1985, p. 50.

<sup>(3)</sup> OJ No L 88, 3. 4. 1986, p. 40.

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 79/693/EEC is hereby amended as follows:

1. In the English version of the Directive, the expression 'chestnut purée' appearing:

- in the title,
- in the first, fourth and fifth recitals,
- in Article 1 (6),
- in Annex I (A) (6)

is hereby replaced by the expression 'sweetened chestnut purée'.

2. The second subparagraph of Article 3 (2) is deleted.

3. Article 7 (2) (d) is replaced by the following:

'(d) where the residual sulphur dioxide content is more than 10 mg/kg, the words "residual sulphur dioxide" shall appear in the list of ingredients as a function of the percentage by weight of the residue in the finished product.'

4. Article 7 (3) (b) is replaced by the following:

'(b) the words "total sugar content: ... g per 100 g", the figure shown representing the value determined by refractometer at 20 °C for the finished product, subject to a tolerance of plus or minus 3 refractometric degrees.'

5. The following Article 8a is inserted:

*Article 8a*

The amendments necessary to adapt the Annexes to technical progress shall be adopted in accordance with the procedure laid down in Article 13.'

6. Article 11 is replaced by the following:

*Article 11*

The identity and purity criteria for products and substances appearing in Annexes II and III shall be determined where necessary in accordance with the procedure laid down in Article 13.'

7. Article 12 is deleted.

8. Article 13 is replaced by the following:

*Article 13*

Where the procedure laid down in this Article is to be followed, the Commission shall decide after consulting the Standing Committee on Foodstuffs, hereinafter referred to as "the Committee". The Committee shall discuss matters on which the Commission has requested an opinion. When seeking the opinion of the Committee, the Commission may set a time-limit within which such opinion shall be given. No vote shall be taken. However, any member of the Committee may demand that his views be set down in the minutes.'

9. Article 14 is deleted.

10. Article 15 (2) and (3) are replaced by the following:

'2. The derogations provided for in paragraph 1 shall cease to apply once a specific directive governing their content becomes applicable, in accordance with Article 3 of Council Directive ... of ... on the approximation of the laws of the Member States concerning food additives authorized for use in foodstuffs intended for human consumption (1).'

(1) Commission proposal COM(86) 87 final (OJ No C 116, 16. 5. 1986, p. 2).'

11. Annex II (A) (1), fourth indent is replaced by the following:

— "ginger" means the edible root of the ginger plant.'

12. Annex II (A) (4) is replaced by the following:

'4. *Fruit juice (juice):*

Fruit juice, concentrated fruit juice and freeze-dried fruit juice which complies with the requirements of Council Directive 75/726/EEC of 17 November 1975 on the approximation of the laws of the Member States concerning fruit juices and certain similar products (1).'

13. In Annex II (A), the following point 5a is inserted:

'5a. *Citrus peel (peel):*

The peel of citrus fruits, cleaned and with the endocarp removed.'



14. Annex II (B) is replaced by the following:

**B. RAW MATERIALS — AUTHORIZED TREATMENT**

1. (a) The products defined in section A (1), (2), (3), (5) and (5a) may in all cases be treated in the following ways:
  - heated, chilled or frozen,
  - freeze-dried,
  - concentrated, to the extent that it is technically possible.
- (b) If the above-mentioned products are intended for the manufacture of products defined in Annex I (A) (2), (4) and (5), sulphur dioxide (E 220) or the salts thereof (E 221, E 222, E 223, E 224, E 226, E 227) may also be added to them.
2. Ginger may be dried or preserved in syrup.
3. Apricots for the manufacture of the product defined in Annex I (A) (2) may also be treated by other dehydration processes apart from freeze-drying.
4. Chestnuts may be soaked for a short time in an aqueous solution of sulphur dioxide (E 220) or the salts thereof (E 221, E 222, E 223, E 224, E 226, E 227).
5. (a) The products defined in part A (4) may be subjected to the treatments provided for in Directive 75/726/EEC.
  - (b) They may also be subjected to the treatment provided for in 1 (b).
6. Products defined in part A (5a) may be preserved in brine.

15. Annex III (A) (1), third indent, is replaced by the following:

Name	Conditions of use
— Red fruit juices	In the products defined in Annex I (A) (1) and (2) where they are obtained from one or more of the following fruits: strawberries, raspberries, gooseberries, redcurrants and plums'

16. Annex III (B), first subparagraph, is replaced by the following:

Name	Conditions of use
— Pectin and amidated pectin (E 440)	All the products defined in Annex I, the pectin and/or amidated pectin content of the finished product not exceeding 1 %'

*Article 2*

Member States shall amend their laws, regulations and administrative provisions in such a way as to:

- permit trade in products complying with this Directive by . . . . .<sup>(1)</sup> at the latest,
- prohibit trade in products not complying with this Directive with effect from . . . . .<sup>(2)</sup>.

They shall forthwith inform the Commission thereof.

*Article 3*

This Directive is addressed to the Member States.

<sup>(1)</sup> 12 months after notification.

<sup>(2)</sup> 24 months after notification.