

EUROPEAN PARLIAMENT

Working Documents

1979 - 1980

9 January 1980

DOCUMENT 1-618/79

Report

drawn up on behalf of the Committee on the Environment, Public Health and
Consumer Protection

**on the proposal from the Commission of the European Communities to
the Council (Doc. 175/79) amending for the seventh time
Directive No 73/241/EEC on the approximation of the laws of the
Member States relating to cocoa and chocolate products intended for
human consumption**

Rapporteur: Mr F. COMBE

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By letter of 7 May 1979 the President of the Council of the European Communities requested the European Parliament to deliver its opinion on the proposal from the Commission of the European Communities to the Council for a Directive amending for the seventh 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.

The President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection.

On 25 September 1979 the Committee on the Environment, Public Health and Consumer Protection appointed Mr F. Combe rapporteur.

It considered this proposal at its meetings of 2 October and 19 December 1979.

At the same meeting the committee unanimously adopted the motion for a resolution and the explanatory statement.

Present: Mr Collins, chairman, Mr Alber, vice-chairman, Mrs Pruvot (deputizing for Mr Combe, rapporteur), Mr Ceravolo (deputizing for Mr Segre), Mr Estgen, Mr Geurtsen (deputizing for Mr Hamilius), Mr Ghergo, Miss Hooper, Mrs Krouwel-Vlam, Mrs Maij-Weggen, Mr Mertens, Mrs Schleicher, Mr Sherlock, Mrs Spaak, Mrs Squarcialupi and Mr Verroken.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive amending for the seventh 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

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 175/79),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 1-618/79)
1. Notes that the delay in submitting this important proposal for amending directive is prejudicial to the protection of consumer health;
 2. Draws attention to its opinion on the proposal for a fifth amendment to the basic Directive² and reiterates the recommendations contained therein, in particular the reservations ~~expressed~~ on the addition of ammonium phosphatides to cocoa and chocolate products;
 3. Considers that the addition of lecithins, ammonium phosphatides, polyglycerol polyricinoleate and sorbitan tristearate to different types of chocolate must be clearly indicated on the wrapping;
 4. Notes with satisfaction that a number of provisionally authorized additives have been finally removed from the list;
 5. Approves the proposal subject to the following amendments pursuant to the second paragraph of Article 149 of the Treaty establishing the EEC.

¹ OJ C 121, 15.5.1979, p. 7

² Doc. 15/78 of 5.4.1978

Proposal for a Council Directive amending for the
seventh 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

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing
the European Economic Community, and in
particular Article 100 thereof,

Unchanged

Having regard to the proposal from the
Commission,

Unchanged

Having regard to the opinion of the
European Parliament,

Unchanged

Having regard to the opinion of the
Economic and Social Committee,

Unchanged

Whereas, under paragraph 2(b)(iii) of
Annex II to Council Directive 73/241/EEC²,
as last amended by Directive 78/842/EEC³,
the Member States can maintain until
20 June 1979 any national provisions
authorizing the use in cocoa and
chocolate products of the emulsifiers
listed in paragraph 2(a)(iii) of Annex II;

Unchanged

Whereas, before the date indicated above,
the Council may decide that these sub-
stances are to be transferred to Annex I
of Directive 73/241/EEC and thus authorized
for general use throughout the Community;

Unchanged

Whereas this option should be exercised
in respect of ammonium phosphatides
(ammonium salts of phosphatidic acids);
whereas the use of these substances offers
technological advantages owing to the
fact that they do not alter the organo-
leptic properties of the cocoa and
chocolate products to which they are
added;

Whereas this option should be
exercised in respect of ammonium
phosphatides (ammonium salts of
phosphatidic acids), polyglycerol
polyricinoleate and sorbitan
tristearate; whereas the use
of these substances offers
technological advantages owing
to the fact that they do not
alter the organoleptic properties
of the cocoa and chocolate
products to which they are added;

¹ OJ No. C 121 of 15.5.1979, p. 7

² OJ No. L 228 of 16.8.1973, p. 23

³ OJ No. L 291 of 17.10.1978, p. 15

Whereas authorization of the use of ammonium phosphatides does not pose any danger to public health, since, in application of the rule laid down in Annex I(6) with regard to lecithins, such authorization is accompanied by the imposition of an overall phosphatide level which takes into account the natural phosphatide content in cocoa beans and which must not be exceeded in the finished product;

Whereas the specific criteria of purity for lecithins have been defined in Council Directive 78/664/EEC of 25 July 1978 laying down specific criteria of purity for anti-oxidants which may be used in food-stuffs intended for human consumption¹,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 73/241/EEC is amended as follows:

1. The first and second paragraphs of Annex I(6) shall be replaced by the following:

To the products listed in Annex I(1), with the exception of cocoa nib, the following may be added, on their own or blended:

- (a) lecithins /E 322/
- (b) ammonium phosphatides /E 442/

The description of the product shall be accompanied by an indication of any such addition, save where the substances in question are added to the various sorts of chocolate referred to in points 1.16 to 1.28.

2. Paragraph 2(a)(iii) and (b) (iii) of Annex II shall be deleted.

Whereas, according to the Scientific Committee for Food, the use of limited quantities of ammonium phosphatides may be authorized, if in application of the rule laid down in Annex I (6) with regard to lecithins, such authorization is accompanied by the imposition of an overall phosphatide level of 30 mg per kg. of body weight which takes into account the natural phosphatide content in cocoa beans and which must not be exceeded in the finished product;

Unchanged

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 73/241/EEC is amended as follows:

1. The first and second paragraphs of Annex I(6) shall be replaced by the following:

To the products listed in Annex I(1), with the exception of cocoa nib, the following may be added, on their own or blended:

- (a) lecithins /E 322/
- (b) ammonium phosphatides /E 442/
- (c) polyglycerol polyricinoleate and sorbitan tristearate, unless evidence to the contrary is furnished.

The description of the product shall be accompanied by an indication of any such addition (Delete final part of sentence)

Unchanged

Article 2 unchanged

Article 3 unchanged

¹ OJ No. L 223 of 14.8.1978, p. 30

EXPLANATORY STATEMENTI. INTRODUCTION

1. The Council Directive of 10 October 1978 amending for the sixth 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 allowed Member States to maintain until 20 June 1979 national provisions applying on 1 August 1973, authorizing the use of polyglycerol polyricinoleate, sorbitan monostearate, sorbitan tristearate, polyoxyethylene sorbitan monostearate and ammonium salts of phosphatidic acids.

2. Before 20 June 1979, however, as stipulated in the above Directive, the Council, pursuant to Article 100 of the EEC Treaty, i.e. on a proposal from the Commission and after consulting the European Parliament, could include these substances in Annex I of basic Directive 73/241/EEC, thus authorizing their use throughout the Community.

3. This proposed amendment was submitted to the Council on 30 April 1979. The Council, in its letter of 7 May 1979, requested the European Parliament to deliver an opinion, if possible during its May part-session. The former Committee on the Environment, Public Health and Consumer Protection met for the last time on 2 and 3 April 1979. It was therefore impossible to comply with the Council's request to deliver an opinion as soon as possible to enable a decision to be taken before 1 July 1979.

4. By way of information it will be noted that the directives on the approximation of laws on foodstuffs generally contain in Annex I the positive list of authorized substances with their chemical name and the EEC code number, while the other annexes contain the substance which, under certain conditions may or may not be added.

5. The inclusion of a substance in such lists depends on an examination of its toxicological properties. Sometimes conditions of use governing daily intake are stipulated.

6. The opinions of the Scientific Committee for Food, requested by the Commission, form a basis for such provisions. These opinions are published in the form of reports. Of course, Community legislation in this area is constantly reviewed, particularly in the light of any fresh scientific information.

7. In view of this, if the Commission refers to the opinions delivered by the Scientific Committee for Food or other professional bodies, it is appropriate that these should as a matter of course be made available in time to the competent parliamentary committees. If delays occur in the publication or translation of these reports, the opinions referring to the matter under discussion should nevertheless be forwarded in the original language, so that a political judgement can be made with a fuller knowledge of the facts.

II. SPECIFIC REMARKS

8. On the substance of the matter, we would refer to a report by the former Committee on Environment, Public Health and Consumer Protection on the proposal for a fifth amendment to the basic Directive, which is now to be amended for the seventh time. This refers to excessive phosphorous intake by European consumers (Doc. 15/78).

9. Since the results of most recent scientific investigations have shown that the use of ammonium phosphatides, polyglycerol polyricinoleate and sorbitan tristearate, within the permitted limits, in cocoa and chocolate products does not endanger health and that unmistakable economic advantages arise from the use of this technique, the Directive can be approved, subject to the necessary amendments to the text.

10. Therefore it is proposed that the penultimate recital preceding the Directive be formulated more clearly and more specifically and that no exceptions be made concerning the indication of these added emulsifiers on the wrapping of the commonest cocoa and chocolate products, i.e. chocolate, plain chocolate, vermicelli chocolate, chocolate flakes, gianduja nut milk chocolate, couverture milk chocolate, white chocolate, filled chocolate and chocolates, as indicated under points 1.16 to 1.28 inclusive of Annex I of the basic Directive.

11. For the purpose of proper consumer information and in view of the critical attitude adopted in the past concerning upper limits for phosphorous intake the committee does not consider exemptions from the obligation to indicate the addition of these and other permissible emulsifiers, as proposed by the Commission in Article 1(1), to be justified.

12. Finally, certain technical difficulties arise in considering such proposed amendments. This is doubtless the case also for national authorities entrusted with the implementation of the directives. Therefore, when such directives are submitted it is suggested that in the annexes the Commission

shall provide the references of all previous amendments appearing in the Official Journal of the European Community and indicate the most important of them. At certain times, particularly when fundamental amendments are submitted it should publish the latest version of the directive in its entirety.

III. CONCLUSION

13. Subject to the above amendments and the request to submit proposals sufficiently early to guarantee continuity in Community legislation, the committee approves this proposal.