

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (79) 232 final

Brussels, 30 April 1979

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

(Submitted by the Commission to the Council)

COM (79) 232 final

EXPLANATORY MEMORANDUM

1. Under the provisions of Annex II(2)(a)(iii) and (b)(iii) of Council Directive 73/241/EEC of 24 July 1973 on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption¹, as last amended by Directive 78/842/EEC², the Member States can maintain until 20 June 1979 any national provisions authorizing the use of the following emulsifiers in cocoa and chocolate products:

- polyglycerol polyricinoleate;
- sorbitan monostearate;
- sorbitan tristearate;
- polyoxyethylene (20) sorbitan monostearate;
- ammonium salts of phosphatidic acids (ammonium phosphatides).

Before the date indicated above, the Council may decide that these substances are to be transferred to Annex I of Directive 73/241/EEC and thus authorized for general use throughout the Community.

2. The Commission has examined the substances in question from the point of view of both their toxicological acceptability and their technological usefulness in cocoa and chocolate products.

2.1. As regards the toxicological aspect, the Scientific Committee for Food, in its opinion of 30 November 1978, stipulated the acceptable daily intakes for all the substances in question. As regards polyoxyethylene (2) sorbitan monostearate, however, this intake figure is of a temporary nature. On the basis of this opinion, which also covers other substances, the Commission has just forwarded to the Council³ a proposal to amend 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 foodstuffs⁴, as amended by Directive 78/612/EEC⁵.

¹ OJ L 228 of 16 August 1973, p. 23

² OJ L 291 of 17 October 1978, p. 15

³ Doc. COM(79)

⁴ OJ 189 of 12 July 1974, p. 1

⁵ OJ L 197 of 22 July 1978, p. 22

2.2. As regards the technological examination the Commission has consulted the Member States and also the business and social circles concerned.

2.2.1. The information received on this occasion leads to the conclusion that the use in cocoa and chocolate products of ammonium phosphatides (ammonium salts of phosphatidic acids) offers real advantages. These substances, which are related to the lecithins already authorized as emulsifiers in cocoa and chocolate products, do not have the drawback associated with the latter of altering the organoleptic properties of the products to which they are added.

Consequently, the Commission proposes to extend to the whole Community the authorized use of ammonium phosphatides.

It also seems possible to provide for the same limitation in their case as has already been provided for the lecithins, viz. an overall level for phosphatide content, including the natural content in cocoa beans, that must not be exceeded in the finished product. In this way the acceptable daily intake, which is 30 mg/kg body weight, will not be exceeded. On the contrary, it will not have been reached by a long way.

At the same time, the opportunity should be taken to review the wording on lecithins, as their criteria of purity have lately been defined in Council Directive 78/664/EEC of 25 July 1978 ².

2.2.2. As regards the other substances listed in Section 1 above, the Commission did not, in the course of its consultations, receive any pertinent information enabling it to issue a favourable opinion on the technological usefulness of these substances. Accordingly, the Commission is not in a position to propose to the Council that these substances be included in Annex I to Directive 73/241/EEC.

3. This proposal for a Directive must be submitted for an opinion to the European Parliament and the Economic and Social Committee. Such consultation is mandatory under the second paragraph of Article 100 of the Treaty.

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 pro-
ducts 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,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas, under paragraph 2 (b)(iii) of Annex II to Council
Directive 73/241/EEC¹, as last amended by Directive 78/842/EEC², 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;

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

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 organoleptic properties of the cocoa and chocolate
products to which they are added;

¹ OJ L 228 of 16.8.1973, p.23

² OJ 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 antioxidants which may be used in foodstuffs intended for human consumption (3),

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.

Article 2

Member States shall take the measures necessary in order to comply with this Directive within eighteen months of its notification. They shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.

Done at

For the Council
The President