



COMMISSION OF THE EUROPEAN COMMUNITIES

CORRIGENDUM:

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Brussels, 18.11.1999
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1999/0158 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 95/2/EC on food additives other than colours and sweeteners

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. What are the objectives of the proposed measure with regard to the Community's obligations?

Directive 89/107/EEC provides for the adoption of specific directives to harmonise the use of different categories of additives in foodstuffs. The Directive 95/2/EC on food additives other than colours and sweeteners was adopted on 20 February 1995. It now needs to be adapted in the light of recent technical and scientific developments.

2. Does competence for the proposed measure lie solely with the Community or is it shared with the Member States?

Competence for the proposed measure lies solely with the Community.

3. To what extent is this a problem on a Community scale?

Harmonisation of the use of food additives at Community level was a priority for completion of the internal market. The framework Directive 89/107/EEC on food additives was adopted on 21 December 1988 and the three specific directives (colours, sweeteners, miscellaneous) in 1994 and 1995. Since then, the instruments relating to the use of additives have been the same in the fifteen Member States. This structure guarantees the free movement of foodstuffs, ensures a high level of consumer protection and offers the consumer greater freedom of choice between different foodstuffs.

Directive 95/2/EC on food additives other than colours and sweeteners is based on the principle of the positive list. A list of authorised food additives is set out in the different Annexes to the Directive with a list of the foodstuffs in which they may be used and the conditions of use. All food additives not included in the list are prohibited except for those new food additives that are temporarily authorised by Member States for a limited period of two years.

4. What is the most effective solution taking into account the means available to the Community and the Member States?

The use of food additives should be regulated uniformly in the European Community to guarantee the free circulation of foodstuffs.

5. What practical additional benefit will the proposed measure provide and what would be the cost of failure to take action?

Some Member States have authorised provisionally the use of a new food additive for two years. This two-year period is now coming to an end. If the Commission proposes the use of these additives at Community level, the temporary authorisation may continue in the Member State in question for an additional 18 months, which has been estimated to be the time required for the legislative procedure to amend Directive 95/2/EC. If the Commission does not propose the use of these food additives, their use must be cancelled.

6. What form of action is open to the Community?

A new Directive adopted by the European Parliament and the Council under the procedure laid down in Article 95 is needed to amend Directive 95/2/EC.

7. Is it absolutely necessary to adopt uniform rules or would a Directive establishing general principles and leaving implementation to the Member States be sufficient?

The Commission proposal is based on the principle of complete harmonisation at Community level, as prescribed by the framework directive on food additives. Uniform rules are needed since use of additives concern public health. There needs to be a large degree of transparency between the Member States in order to establish a high level of food safety and to ensure free trade in foodstuffs within the Community.

8. Specific remarks

This amendment to Directive 95/2/EC allows the use of some new food additives, which are currently forbidden but have recently been evaluated by the Scientific Committee on Food and found acceptable for human consumption.

Furthermore, some new food additives, authorised temporarily by some Member States and evaluated by the Scientific Committee on Food, are included. In addition, the proposal allows food additives already authorised to be used in certain new applications.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 95/2/EC on food additives other than colours and sweeteners

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption¹, as amended by European Parliament and Council Directive 94/34/EC², and in particular Articles 3(2) and 5(3) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the Economic and Social Committee⁴,

Acting in accordance with the procedure referred to in Article 251 of the Treaty⁵,

Whereas:

- (1) European Parliament and Council Directive 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners⁶, as last amended by Directive 98/72/EC⁷, lays down a list of food additives that may be used in the Community and their conditions of use.
- (2) There have been technical developments in the field of food additives since the adoption of Directive 95/2/EC.
- (3) Directive 95/2/EC should be adapted to take account of those developments.
- (4) According to Article 5(1) of Directive 89/107/EEC, a Member State may authorise the use of a new food additive for a two-year period in its territory.

¹ OJ L 40, 11.2.1989, p. 27.

² OJ L 237, 10.9.1994, p. 1.

³ OJ

⁴ OJ

⁵ OJ

⁶ OJ L 61, 18.3.1995, p. 1.

⁷ OJ L 295, 4.11.1998, p. 18.

- (5) In accordance with requests from Member States, the following nationally authorised additives should be approved at Community level: ethyl hydroxyethyl cellulose, propane, butane and isobutane.
- (6) Pursuant to Article 6 of Directive 89/107/EEC the Scientific Committee on Food, established under Commission Decision 97/579/EC⁸, has been consulted on the adoption of provisions liable to have an effect on public health,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The Annexes to Directive 95/2/EC are amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by 31 August 2000 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

⁸ OJ L 237, 28.8.1997, p. 18.

1. In Annex I:

- (a) The following additives are inserted in the table:

"E 467 Ethyl hydroxyethyl cellulose

E 949 Hydrogen**"

- (b) In point 3 of the note, the substance "E 949" is inserted in the text corresponding to the explanation of symbol*.

2. In Annex II:

The following row is added:

"Peeled and cut ready-to-eat carrots	E 401 Sodium alginate	<i>quantum satis</i> "
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3. In Annex IV:

- (a) The following is added to the row for E 445: Glycerol esters of wood rosin:

"Spirit drinks in accordance with Council Regulation (EEC) No 1576/89 laying down general rules on the definition, description and presentation of spirit drinks**	100 mg/l
Spirit drinks containing less than 15% alcohol by volume	100 mg/l

** OJ L 160 , 12.6.1989 p. 1."

- (b) The following rows are added:

"E 650	Zinc acetate	Chewing gum	1 000 mg/kg
E 943a	Butane	Vegetable oil pan spray	<i>quantum satis</i> "
E 943b	Isobutane	(for professional use only)	
E 944	Propane	Water-based emulsion sprays	

4. In Annex V, the first row is replaced by the following:

"E 1520	Propan-1,2-diol (propylene glycol)	Colours, emulsifiers, antioxidant and enzymes (maximum 1 g/kg in the foodstuff)"
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IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM SIZED ENTERPRISES (SMEs)

Title of the Proposal:

Proposal for a European Parliament and Council Directive amending Directive 95/2/EC on food additives other than colours and sweeteners

Reference Number:

III/5173/99

Objective:

An amendment is proposed for the positive list of food additives as laid down in Directive 95/2/EC. This directive was developed according to the provisions of the framework Directive 89/107/EEC on food additives, which requested the Commission to make a proposal on all food additives and the food categories in which the approved food additives may be used together with their maximum levels.

European Parliament and Council Directive 95/2/EC on food additives other than colours and sweeteners was proposed in August 1992 and adopted in March 1995. The previous update of the Directive was proposed in March 1996 and adopted in November 1998. Since then development at technical and scientific level as well as in the manufacture of foodstuffs has progressed. Therefore, a need to amend the positive list of Directive 95/2/EC exists.

It is therefore necessary to introduce a proposal for an amendment to the European Parliament and Council Directive 95/2/EC modifying the positive list of food additives other than colours and sweeteners.

The impact on business:

1. - All sectors of the food industry using additives for the manufacture of foodstuffs are affected;
 - SME as well as larger enterprises will be affected through widening the range of products that can be manufactured;
 - there is an homogenous geographical distribution.
2. There will be no effect on employment. There will be an increase in competitiveness, because of improved production efficiency.
3. The proposal does not provide special measures for SME. All enterprises are treated equally.

Consultation:

Associated Commission services have been formally consulted.

