

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 740 final

Brussels, 14 December 1979

Proposal for a

COUNCIL DIRECTIVE

amending for the second time Directive 75/726/EEC on the approximation of the laws of the Member States concerning fruit juices and certain similar products

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(submitted to the Council by the Commission)

COM(79) 740 final



EXPLANATORY MEMORANDUM

The aim of this proposal for a Directive is to:

- resolve once and for all the problem of the acidification of certain fruit juices and nectars,
- bring the labelling provisions for fruit juices and similar products into conformity with the labelling rules for foodstuffs in general,
- correct certain errors noted during implementation of the amended Directive.

1. Acidification

1.1 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<sup>1</sup>, amended by Council Directive 79/168/EEC of 5 February 1979<sup>2</sup>, permits the correction of the natural acidity of certain fruit juices and nectars as follows (cf. Article 4(2)(c), Article 7(2)(d), Article 16(1)(c), (g), and (h)):

- pineapple juice: 3 g of citric acid per litre of juice; Member States may also continue to authorize the use of L and DL Malic acids
- pulpy pear and peach nectars and mixtures of the two: 5 g of citric acid per litre of nectar, which may be replaced totally or partially by an equivalent quantity of lemon juice; Member States may also continue to authorize the use of L and DL Malic acids.

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<sup>1</sup>OJ No L 311, 1.12.1975, p. 40

<sup>2</sup>OJ No L 37, 13.2.1979, p. 27

- grape juice : Member States may continue to authorize the use of citric acid, the maximum quantity permitted being 3 g. per litre of juice.
- apple juice : Member States may authorize the use of citric acid, the maximum quantity permitted being 3 g per litre of juice.
- pear and peach nectars (pulpy or non-pulpy) and mixtures of the two:  
Member States may authorize the use of lactic acid, the maximum dose permitted being 5 g per litre of nectar.

The national derogations are subject to a review clause in Article 16(2) of Directive 75/726/EEC.

- 1.2 On 19 July 1978, the Commission submitted to the Council a proposal for a Directive<sup>3</sup> designed - inter alia - to extend the possible use of citric acid to pulpy sweet cherry and apple nectars.

From examination of this proposal within the Council, it emerged, however, that such a measure was too limited to resolve all the problems connected with the inadequate natural acid content of certain juices and nectars produced in or imported into the Community. The Commission accordingly undertook to re-examine these problems as a whole and to present a new proposal which would enable them to be resolved in an appropriate fashion<sup>4</sup>. Pending the drawing up of this new proposal and its adoption by the Council, the latter decided, through Directive 79/168/EEC, to allow Member States to authorize the acidification of apple juice with citric acid, the maximum quantity permitted being 3 g/l.

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<sup>3</sup>Document COM(78)322 final

<sup>4</sup>The Commission had planned to present this proposal before 1 April 1979. It became apparent, however, particularly when the Member States were consulted prior to the drafting of this proposal, that it was necessary to include in it provisions designed to bring the labelling rules for fruit juices and similar products into conformity with those contained in Directive 79/112/EEC relating to the labelling of foodstuffs in general, even if this extension were to lead to some delay in the forwarding of this proposal.

1.3 Having given this undertaking, the Commission proceeded to examine the said matter in detail and reached the conclusion that the most equitable solution would be to abandon the use of acids proper ("food acids") in the preparation of fruit juices and nectars.

This conclusion is based on the following considerations:

- It is necessary to draw a very clear distinction between fruit juices and nectars on the one hand and further processed products, notably soft-drinks, on the other.

Food acids are widely used in the soft-drinks sector, where they meet with no fundamental objections. Where fruit juices and nectars are concerned, however, such a practice is scarcely compatible with the very nature of these products, the main characteristic of which is to be derived from the fruits used.

- If, as a result of exceptional circumstances, the correction of the natural acidity of a fruit juice or nectar proves unavoidable, it is possible to resort to the use of lemon juice, concentrated if necessary.

- The use of lemon juice in place of a food acid has only a negligible influence on the production costs of the products thus obtained. There is no prospect of any lemon juice supply difficulties.

- The various sectors of the trade consulted in this connection are very largely in favour of such a measure.

1.4 The aim of this proposal is, therefore, to prohibit by a fixed date in the future the acidification of fruit juices and nectars with food acids and to substitute lemon juice, concentrated if necessary.

The use of the latter is not considered as a mixture of several fruits or fruit juices when certain quantitative limits are adhered to. From the practical viewpoint, adherence to these limits means that the use of lemon juice (or concentrated lemon juice) need not

appear in the name under which the finished product is sold, but has merely to be mentioned in the list of ingredients.

1.5 In the fruit juice category, the Commission proposes that acidification with lemon juice be permitted for pineapples, apples, oranges and grapefruit and also mixtures of these fruits. The Commission has indeed been informed that these four kinds of fruits are the ones which most often have an inadequate natural acid content. It is estimated that the quantity of lemon juice necessary to obtain proper acidity is 2% by volume. An equivalent quantity of concentrated lemon juice can be substituted.

As regards fruit nectars, the Commission feels that acidification is justifiable for all fruits the juice of which is edible in its natural state (cf. second paragraph of the annex to Directive 75/726/EEC), given that the concept of natural acidity has no absolute value in this case. The quantity of lemon juice has been fixed at 3% by volume. An equivalent quantity of concentrated lemon juice may be substituted.

## 2. Labelling

Pursuant to the first paragraph of Article 20 of Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer<sup>5</sup>, the labelling rules for fruit juices and similar products have been maintained for the time being. The Commission now proposes that they be brought into conformity with Directive 79/112/EEC. This is the purpose of the new Article 11. Implementation of the new labelling provisions must be synchronised with that of Directive 79/112/EEC.

As regards products not for sale to the ultimate consumer but subject to the set of rules introduced by Directive 75/726/EEC (cf. Article 2(2)), the Commission proposes that for the time being Member States should be free to lay down labelling rules applicable thereto. This situation will be reviewed when the Council has adopted a supplementary Directive relating to the labelling of products not yet to be delivered as such to the ultimate consumer.

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<sup>5</sup>OJ No L 33, 8.2.1979, p. 1

referred to in Article 3(2) where the descriptions listed therein are used to designate these products:

(ii) for the product defined in Article 1(8), the adjective "dried" may be accompanied or replaced by particulars of the specific process used (e.g. freeze-dried or any other similar reference).

(b) The names under which they are sold shall be supplemented:

(i) for products manufactured from two or more kinds of fruit, except as regards the use of lemon juice or concentrated lemon juice in accordance with Article 4(2)(c) and Article 7(2)(d), by a list of the fruits used, in descending order of the weight of the fruit juices or purées included, where appropriate after restoration; the use of the term "fruit" shall be optional in this case;

(ii) for fruit juices with sugars added in accordance with Article 4(2)(a)(ii), by the declaration "sweetened", followed by a clear indication of the maximum quantity of sugars added, calculated as dry matter and expressed as grammes per litre; the quantity indicated may not exceed the actual quantity added by more than 15%;

(iii) for the fruit nectars referred to in Article 3(2)(c) which are not designated by the description "succo e polpa" alone. in accordance with the national provisions

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Articles 43 and 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 Council Directive 75/726/EEC<sup>1</sup>, as amended by Directive 79/168/EEC<sup>2</sup>  
authorizes the use, either throughout the Community or pursuant to national  
laws, of certain acids to correct the inadequate natural acidity of several  
fruit juices and nectars;

Whereas it is advisable to seek an overall solution to all the problems posed  
by the need to increase the acidity of fruit juices and nectars, and whereas  
this solution should not be restricted to the national derogation which are  
the subject of the review clause in Article 16(2) of  
Directive 75/726/EEC;

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<sup>1</sup>OJ No L 311, 1.12.1975, p. 40

<sup>2</sup>OJ No L 37, 13.2.1979, p. 27



Whereas a clear distinction should be drawn between fruit juices and nectars on the one hand and further processed products such as soft drinks on the other;

Whereas the use of an acid proper is incompatible with the very nature of fruit juices and nectars, the main intrinsic characteristics of which should be derived from the fruits used;

Whereas the use of lemon juice, concentrated if necessary, to offset a certain lack of natural acidity is the most appropriate means of attaining this objective;

Whereas, however, such a practice cannot be freely authorized but should be restricted to the kinds of fruits for which it is technically justifiable;

Whereas it is advisable to prevent the use of lemon juice, concentrated if necessary, for acidification purposes and within the limits imposed, from being considered to constitute a mixture of fruits or juices of different kinds;

Whereas Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer<sup>3</sup>, pursuant to the first paragraph of Article 20 thereof, did not affect the provisions of Directive 75/726/EEC relating to the labelling and presentation of fruit juices and similar products;

Whereas these provisions should, pursuant to the second paragraph of Article 20 of Directive 79/112/EEC, be adapted to the rules laid down in the said Directive;

Whereas the implementation of the new labelling arrangements for fruit juices and similar products should coincide with that of Directive 79/122/EEC;

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<sup>3</sup>OJ No L 33, 8.2.1979, p. 1

Whereas pending the adoption of Community provisions in this field, the Member States should for the time being be free to lay down rules governing the labelling of products not for sale to the ultimate consumer;

Whereas the tenth indent of Article 4(1)(b) of Directive 75/726/EEC provides for the use of "silica aerogel";

Whereas this term is incorrect and should be replaced by the expression "silicon dioxide as a gel or colloidal solution", as in the provisions relating to oenological processes laid down by Annex III(2)(m) to Council Regulation (EEC) No 337/79 on the common organization of the market in wine<sup>4</sup>;

Whereas the first paragraph of Article 6 of Directive 75/726/EEC states that, exceptions apart, the sulphur dioxide content of a "fruit juice", as determined by analysis, shall not exceed 10 mg/l;

Whereas this rule should apply to all the products defined in Article 1 (5) to (8) of Directive 75/726/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/726/EEC is hereby amended as follows:

1. In the tenth indent of Article 4(1)(b), "silica aerogel" shall be replaced by "silicon dioxide as a gel or colloidal solution".
2. Article 4(2)(c) shall be replaced by the following:  
"(c) in the case of pineapple, apple, orange and grapefruit juice and mixtures of these juices, the addition, for their correction, of lemon juice in a quantity not greater than 2% by volume or of an equivalent quantity of concentrated lemon juice, this addition not being regarded as mixing within the meaning of paragraph 1(a)".

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<sup>4</sup>OJ No L 54, 5.3.1979, p.1

3. Article 4(3) shall be replaced by the following:  
"3. The additions referred to in paragraph 2(a) and (c) may not be cumulative for the same fruit juice".
4. Article 4(4) shall be deleted.
5. The first paragraph of Article 6 shall be replaced by the following:  
"Unless otherwise provided for in this Directive, the sulphur dioxide content of the products defined in Article 1(5) to (8), as determined by analysis, shall not exceed 10 mg per litre".
6. Article 7(2)(d) shall be replaced by the following:  
"(d) in the case of the fruit nectars which are obtained from one or more of the fruits referred to in paragraph II of the Annex, the addition, for their correction, of lemon juice in a quantity not greater than 3% by volume or of an equivalent quantity of concentrated lemon juice, this addition not being regarded as mixing within the meaning of Article 4(1)(a) or of paragraph 1(a);".
7. Article 7(3) shall be deleted.
8. Article 11 shall be replaced by the following:

"Article 11

1. Directive 79/112/EEC shall apply to the products defined in Article 1(5) to (8) in accordance with the following provisions.
2. (a) The names under which the products defined in Article 1(5) to (8) are sold shall be the name reserved for them pursuant to Article 3(1), (2) and (3).

However,

- (i) the use of the description "fruit nectar" may be made optional by Member States for one or more of the products

referred to in Article 3(2) where the descriptions listed therein are used to designate these products:

(ii) for the product defined in Article 1(8), the adjective "dried" may be accompanied or replaced by particulars of the specific process used (e.g. freeze-dried or any other similar reference).

(b) The names under which they are sold shall be supplemented:

(i) for products manufactured from two or more kinds of fruit, except as regards the use of lemon juice or concentrated lemon juice in accordance with Article 4(2)(c) and Article 7(2)(d), by a list of the fruits used, in descending order of the weight of the fruit juices or purées included, where appropriate after restoration; the use of the term "fruit" shall be optional in this case;

(ii) for fruit juices with sugars added in accordance with Article 4(2)(a)(ii), by the declaration "sweetened", followed by a clear indication of the maximum quantity of sugars added, calculated as dry matter and expressed as grammes per litre; the quantity indicated may not exceed the actual quantity added by more than 15%;

(iii) for the fruit nectars referred to in Article 3(2)(c) which are not designated by the description "succo e polpa" alone, in accordance with the national provisions referred to in (a)(i), by the declaration "contains fruit pulp" or an equivalent expression.

3. An obligation to declare the list of ingredients shall apply, subject to the following derogations:

(a) (i) the restoration to its original state, by means of the

- substances strictly necessary for this operation
- of fruit juice from a concentrated fruit juice,
- of a fruit purée from a concentrated fruit purée,

- (ii) the restoration of the aroma
  - to concentrated fruit juice
  - to dried fruit juice

shall not involve an obligation to declare the list of the ingredients used for this purpose.

- (b) The substances listed in the first indent of Article 4(2)(b) shall not be considered as ingredients of one of the products defined in Article 1(5) to (8) where the sulphur dioxide content of these products, as determined by analysis, does not exceed 10 mg per litre.
- (c) The carbon dioxide which may be contained in the products defined in Article 1(5), (6) and (7) in quantities not exceeding 2 g per litre shall not be considered as an ingredient of these products.

4. Indication of the following particulars shall also be compulsory on the labelling of the products defined in Article 1(5) to (8):

- (a) for fruit juice and nectar obtained wholly or partially from a concentrated product, except as regards the use of concentrated lemon juice in accordance with Article 4(2)(c) and Article 7(2)(d), the declaration "contains ..... made from concentrate", plus the name of the concentrated product used;
- (b) for the products defined in Article 1(5), (6) and (7), the carbon dioxide content of which is greater than 2 g per litre, the declaration "carbonated";
- (c) for concentrated fruit juice and dried fruit juice, an indication of the quantity of water to be added to reduce the product to the normal density of the corresponding fruit juice;

(d) for fruit nectars, the actual minimum content of fruit juice, fruit purée or mixture of these ingredients, by the declaration "fruit content : ..... % minimum".

5. The particulars referred to, in paragraph 4(a), (b) and (d) shall appear in the same field of vision as those referred to in Article 11(3)(a) of Directive 79/112/EEC.

6. The addition of L-Ascorbic acid as provided for in Article 4(1)(b) shall not authorize any reference to vitamin C."

9. The following Article 11,a shall be inserted:

"Article 11

Subject to the provisions to be adopted by the Community in this field, the Member States shall remain free to determine the labelling rules for the products referred to in Article 2(2) which are not to be delivered as such to the ultimate consumer."

10. Article 16(1)(e), (g) and (h) shall be deleted.

11. Article 16(2) shall be replaced by the following:

"2. Within five years following notification of this Directive, the Commission shall re-examine the derogations in paragraph 1(a), (b), (d) and (f) and shall propose any necessary amendments to the Council."

Article 2

1. Member States shall amend their laws as necessary to comply with this Directive, and shall forthwith inform the Commission thereof; the laws thus amended shall apply so as to:

- permit trade in those products which comply with this Directive, not later than two years after notification;

- prohibit trade in those products which do not comply with this Directive, three years after notification.

2. Notwithstanding the second indent of paragraph 1, the time limit for the prohibition of trade in products the labelling of which does not comply with Article 11 of Directive 75/726/EEC, as amended by Article 1(8) of this Directive, shall be that referred to in the second indent of Article 22(1) of Directive 79/112/EEC.

Article 3

This Directive is addressed to the Member States.

Done at

For the Council

The President

