

# COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 18 February 1982

Proposal for a

COUNCIL DIRECTIVE

amending for the second time Directive 76/118/EEC on the approximation  
of the laws of the Member States relating to certain partly or wholly  
dehydrated preserved milk for human consumption

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(submitted to the Council by the Commission)



EXPLANATORY MEMORANDUM

The aims of this proposal for a Directive are as follows :

- to bring the requirements governing the labelling of preserved milk into line with the rules on the labelling of foodstuffs in general;
- to extend the period of application of Article 14 concerning indications of quality for the products in question;
- to include the following, in the case of certain Member States, in the provisions of Article 3 (2) on the designations of these products :  
"condensed semi-skimmed milk" and "semi-skimmed milk powder".

### 1. Designations

Under Article 3 (2) of Council Directive 76/118/EEC (1) the use of local designations in certain Member States is authorized for retailing purposes. Council Directive 78/630/EEC (2) of 19 June 1978 amending for the first time Directive 76/118/EEC extended this authorization to "lait demi-écrémé concentré", "lait demi-écrémé concentré non sucré" in Belgium, France and Luxembourg and "geëvaporeerde halfvolle melk" in Belgium and the Netherlands.

However, under Article 3 (3) of Directive 76/118/EEC the Council is empowered, after a period of five years, to modify or revoke these provisions.

Moreover, in certain Member States (France and the Benelux countries) difficulties have arisen as regards the retailing of partly skimmed sweetened milk and partly skimmed milk powder, where these products contain 14 to 16 grams of fats by weight per 100 grams. For the sake of clarity, it would be desirable to retail these two products under the following respective designations : "lait demi-écrémé concentré sucré" and "lait demi-écrémé en poudre" in Belgium, France and Luxembourg and "gesuikerde geëvaporeerde halfvolle melk" and "halfvolle melkpoeder" in Belgium and the Netherlands.

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(1) Council Directive of 19 June 1978; O.J. no L 206/78 of 29.7.1978.

(2) O.J. no L 206/78 of 29.7.1978.

Experience has shown, in this connection, that the designations listed in Article 3 (2) represent nothing more than useful information for the consumer. Likewise, there is no instance where they constitute a barrier to intra-Community trade.

Consequently, it is proposed, on the one hand, to bring the two above-mentioned products within the scope of Article 3 (2) and, on the other, to revoke paragraph 3 of the same article, with the result that these designations will lose their temporary character.

The professional circles consulted in this connection are favourably disposed to these amendments.

## 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 (3), the rules governing the labelling of preserved milk have been provisionally retained. The Commission is now proposing to bring these rules into line with Directive 79/112/EEC, and this is the purpose of Article 2 (new Article 7).

## 3. Indications of quality

Article 14 of Directive 76/118/EEC stipulates that this Directive shall not affect the laws of the Member States concerning indications of quality applicable to the products referred to. However, in view of the fact that relevant Community provisions had not been adopted within a period of three years and pursuant to the second paragraph of this article, the Commission has conducted a survey among the Member States and the professional associations. A report prepared by the Directorate-General for Agriculture sets out the results of this survey by pointing to the wide variety of quality ranges which exist not only in the Community but also in other major milk-producing countries. These results, and the discussions on them, showed that, before tackling this problem, it was desirable to lay down minimum physical, chemical and hygienic quality criteria in accordance with the provisions of Article 11 of Directive 76/118/EEC. Studies to this end are currently being carried

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(3) O.J. No L 33, 8.2.1979, p.1.

out by the competent Commission departments but, because of the highly technical nature of the task, this will take a considerable amount of time. Accordingly, it was considered desirable, with the agreement of the professional associations concerned, to extend to seven years the deadline for the application of Article 14.

4. Since this proposal is based on Article 43 of the Treaty, consultation of the European Parliament is mandatory. Given the nature of the proposal, which is covered by the laws on foodstuffs, consultation of the Economic and Social Committee is desirable.

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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 76/118/EEC<sup>1</sup> lays down in Article 3 (3) that  
five years after the date of notification of this Directive the Council,  
acting on a proposal from the Commission, may decide to modify or  
revoke paragraph 2 of this Article;

Whereas Council Directive 78/630/EEC<sup>2</sup> amending for the first time  
Directive 76/118/EEC lays down in Article 1 that the designations  
be added to Article 3 (2) of Directive 76/118/EEC, to denote, in the  
case of sale by retail, the product defined in point 1 (c) of the Annex  
to Directive 76/118/EEC;

Whereas difficulties have been found in certain Member States in relation  
to the designation of condensed semi-skimmed milk and semi-skimmed milk  
powder which may be sold by retail; whereas it is therefore necessary  
to extend to those States the option provided for in Article 3 (2) of  
Council Directive 76/118/EEC, as regards retail sales of products under  
the above designations;

<sup>1</sup> OJ No L 24, 30.1.1976, p. 49.

<sup>2</sup> OJ No L 206, 29.7.1970, p. 12.

Whereas the use of the designations listed in Article 3 (2) of Directive 76/118/EEC, as amended by Article 1 of Directive 78/630/EEC provides useful information for the consumer and does not constitute a barrier to intra-Community trade; whereas, in consequence, it is desirable to remove the temporary character of these designations by revoking Article 3 (3) of Directive 76/118/EEC;

Whereas Article 7 (8) of Directive 76/118/EEC lays down that within three years of the notification of the Directive the Council re-examine the derogation provided for in the last indent of paragraph 3 (a) of the said Article, relating to partly or wholly skimmed products for infants;

Whereas the labelling of preserved milk must be made subject to the general rules laid down in 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>; whereas, accordingly, the present Directive can confine itself to adopting the necessary provisions supplementing and derogating from these general rules;

Whereas the second paragraph of Article 14 of Directive 76/118/EEC lays down that, after a period of three years from notification of the Directive, the Council, acting on a proposal from the Commission and taking into account a report from the Commission on the situation in the Member States, is to re-examine the possibility of determining indications of quality;

Whereas a survey conducted by the Commission among the Member States has demonstrated the need to lay down minimum physical, chemical and hygienic standards prior to examining the possibility of laying down quality criteria as such; whereas, in consequence, the period set in the second paragraph of Article 14 of Directive 76/118/EEC should be extended,

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

HAS ADOPTED THIS DIRECTIVE :

Article 1

Directive 76/118/EEC is hereby amended as follows :

1. The following is added to Article 3 (2) :
  - (e) "lait demi-écrémé concentré sucré" in Belgium, France and Luxembourg and "gesuikerde geëvaporeerde halfvolle melk" in Belgium and the Netherlands, to denote, in the case of sale by retail, the product defined in point 1 (g) of the Annex;
  - (f) "lait demi-écrémé en poudre" in Belgium, France and Luxembourg and "halfvolle-melkpoeder" in Belgium and the Netherlands, to denote, in the case of sale by retail, the product defined in point 2 (c) of the Annex and containing, by weight, between 14 and 16 grams of fat per 100 grams.
2. Article 3 (3) is deleted.
3. Article 7 is replaced by the following :

Article 7

Directive 79/112/EEC shall apply to the products defined in the Annex, subject to the following conditions :

- (a) the name under which the products defined in the Annex are sold shall correspond to one of the designations reserved for this purpose pursuant to Article 3;
- (b) in the case referred to in Article 5 (4), the words "instant solubility" shall be added to the name under which the product is sold.



The labelling of the products defined in the Annex shall also include the following compulsory information :

- a) the percentage of milk fat, expressed by weight in relation to the finished product, except in the case of the products defined in point 1 b) and f) and point 2 b) of the Annex and the percentage of fat-free dried milk extract in the case of the products defined in point 1 of the Annex;
- b) directions for use in respect of products defined in point 1 of the Annex; these particulars may be replaced by relevant information on the use of the product when the latter is intended for application in the unaltered state;
- c) in the case of the products defined in point 2 of the Annex, the recommendations on the method of dilution or reconstitution, including details of the fat content of the product thus diluted or reconstituted, except in the case of the products defined in b);
- d) the expressions "UHT" or "ultra heat treated" for the products defined in point 1 a), b), c) and d) of the Annex, where these products are obtained as a result of such treatment and aseptically packed.

- The net quantity of products defined in the Annex shall be expressed :

- a) in units of mass as a general rule;
- b) in units of volume as regards liquid or semi-liquid bottled products;

- The particulars set out in paragraph 3 a) and d) shall appear in the same field of vision as those listed in Article 11 (3) of Directive 79/112/EEC;

- In the case referred to in Article 5 (7) Member States shall be empowered to insist on the inclusion of details of the nature and quantity of added vitamins;

- Member States shall also be empowered to insist on the inclusion of a recommendation on the use by infants of the partly or wholly dehydrated products defined in the Annex.

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4. The following Article 7a is inserted :

"Article 7a

Without prejudice to the provisions to be adopted by the Community in this field, Member States shall be free to determine rules on the labeling of the products defined in the Annex and not intended for delivery as such to the ultimate consumer".

5. The second paragraph of Article 14 is hereby amended as follows :  
"In the absence of relevant Community provisions as at 1 January 1986, the Council shall re-examine the provisions of this Article on the basis of a report from the Commission with any appropriate proposals".

Article 2

Member States shall make such amendments to their laws as may be necessary to comply with the provisions of this Directive and shall forthwith inform the Commission thereof.

The laws thus amended shall be applied in such a way as to :

- permit trade in those products which comply with the provisions of this Directive not later than 1 January 1984;
- prohibit trade in those products which do not comply with the provisions of this Directive as from 1 January 1985.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, .....

For the Council