

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 416 final

Brussels, 18 July 1980

Proposal for a

COUNCIL DIRECTIVE

amending for the fifteenth time Directive 64/54/EEC on the approximation of the laws of the Member States concerning the preservatives for use in foodstuffs intended for human consumption

(submitted to the Council by the Commission)

COM(80) 416 final

EXPLANATORY NOTE1. Liquid smoke solutions

The Directive on Preservatives¹ for use in foodstuffs authorizes Member States to use so called "liquid smoke solutions" in food until 31 December 1980². These materials are manufactured by various technological procedures, but are principally aqueous solutions of smoke constituents isolated from "smoke" and sometimes adsorbed onto a solid support. Opinions vary as to whether these materials exert any demonstrable preservative effect in foodstuffs although it already appears clear that users of these materials are primarily interested in their flavouring potential. The Commission, in association with experts of the Council of Europe's Committee on flavourings, has undertaken the necessary investigation to more clearly define their technological function (i.e. to confirm whether in fact their principle function is as a flavouring agent and that the preservative effect is of secondary importance), and on their safety in use.

It is already evident that due to the complexity of the investigations it will not be possible to make a definitive proposal before the expiry date (i.e. 31 December 1980) of the present temporary provisions in the Directive. For this reason the Commission proposes to modify Article 3 of the Directive on Preservatives in such a way as to maintain for a further period the existing provisions in the Directive which enable Member States to authorize the use of liquid smoke solutions on their territories. The Commission believes that a further proposal could be formulated if necessary on the basis of the investigations within eighteen months to two years and Article 2 of the proposal requires that the temporary authorization be reviewed within three years. It is anticipated that the extra period provided will be necessary if the European Parliament, Economic and Social Committee and Scientific Committee for Food are to be consulted early enough to allow a comprehensive discussion of the problems in these bodies.

2. Smoking

The authorization in the Member States of "traditional" smoking has been a matter left to the competent national authorities since the adoption

¹OJ No 12, 27.1.1964, p. 161/64

²OJ No L 44, 15.2.1978, p. 23

of the Directive in 1962. Recently it has been suggested that the Commission should also study this process, both from the point of view of its safety-in-use and its technological efficacy as a preservation or flavouring process. The proposal requires that this question also be studied during the same period of three years.

3. The Directive on Preservatives for use in foodstuffs also permits Member States to maintain provisions of their national laws relating to the use of formaldehyde in Grana Padano cheese provided that when the final product is marketed the level of formaldehyde, free and/or combined shall not exceed 0.5 mg/kg^2 . The Commission is aware that as a number of further scientific investigations is under way and therefore believes it to be premature to propose an amendment to the Directive at this point in time.

Under these circumstances under the terms of the Directive the derogation remains in force.

Proposal for a Council Directive amending for the fifteenth time Directive 64/54/EEC on the approximation of the laws of the Member States concerning the preservatives authorized for use in foodstuffs 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 Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas Article 3 of Council Directive 64/54/EEC⁴, as last amended by Directive 79/40/EEC⁵, requires that Member States shall authorize the smoking of certain foodstuffs only in smoke produced from weed or woody plants in the natural state and that such smoking should not create any risk to human health;

Whereas Article 5 of Directive 64/54/EEC, as amended for the thirteenth time by Directive 78/145/EEC⁶, permits Member States to authorize until 31 December 1980 the use of liquid smoke solutions;

Whereas liquid smoke solutions are used primarily for their flavouring properties; whereas they may have a subsidiary preservative property;

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⁴OJ No 12, 27.1.1964, p. 161/64

⁵OJ No L 13, 19.1.1979, p. 50

⁶OJ No L 44, 15.2.1978, p. 23

Whereas investigations are taking place in several Member States on the toxicological acceptability and on the precise technological function of liquid smoke solutions; and whereas similar investigations are being carried out on the practice of smoking of foodstuffs; whereas the situation must be reviewed in the light of these investigations;

Whereas it is therefore not yet possible to take final decisions as to whether or not the use of liquid smoke solutions should be authorized within the Community nor as to the manner in which this authorization should be brought about; and whereas the practice of smoking of foodstuffs should be re-examined at Community level;

Whereas Directive 78/145/EEC also permits Member States to maintain the provisions of their national laws relating to the use of formaldehyde in Grana Padano cheese subject to a Commission;

Whereas this provision should be maintained for a further period of three years;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 64/54/EEC is hereby amended as follows:

1. Article 3 is replaced by the following:

"Member States may authorize the smoking of certain foodstuffs only in smoke, or liquid solutions of smoke, produced from wood or woody plants in the natural state, excluding wood or plants which have been impregnated, coloured, gummed or painted or treated in a similar manner and provided that such smoking does not create any risk to human health."

2. In Article 5, paragraphs 2 and 3(b) are deleted and paragraph 3(a) is renumbered as the new paragraph 2.

Article 2

Within three years following notification of this Directive the Commission shall re-examine the provisions of Article 1 and shall propose any necessary amendments to the Council.

Article 3

Member States shall bring into force the laws regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1980 and shall forthwith inform the Commission thereof.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President