

Newsletter on the Common Agricultural Policy

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Harmonization of EEC Member States' legislation on foodstuffs

There are numerous differences in Member States' legislative and administrative provisions relating to foodstuffs. These differences hamper the free movement of foods and may also make for unequal conditions of competition among firms, thereby directly affecting the establishment and operation of the common market.

The production and marketing of foodstuffs are governed by national provisions that are very strict and differ among themselves, particularly as regards composition, method of manufacture, packaging and labelling.

Inspection and legal action to enforce the rules applicable to the manufacture of foodstuffs are also the object of provisions that must be harmonized, particularly where methods of analysis are concerned, if all the work being done in this field is to bear fruit.

The EEC Commission must work out a system that is fairly precise but at the same time respects the characteristics of the national markets as far as possible.

Not wishing to be too doctrinaire in its method of work, the Commission thought it best, as did also the delegations of the Member States, to proceed pragmatically, picking out the problems that exert a real influence on intra-Community trade in foodstuffs. However, the desire to remove such impediments to trade is not the only motive behind the work of harmonization. The government experts and the Commission also have the following aims in view:

1. to protect public health;
2. to protect consumers against fraud;
3. to prevent unfair competition;
4. to maintain and improve the quality of products.

Where the protection of public health is concerned, certain general principles can be recognized, at least with regard to additives used in food for human consumption.

In this matter, the following principles must be regarded as essential:

1. Where a choice has to be made between several compounds which achieve essentially the same result, the ones to adopt are those that also have some nutritional value or whose effects are beneficial.

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2. No additives should be tolerated in foods if technologically satisfactory production conditions for these foods make the use of additives superfluous.
3. Where the use of an additive can be justified on technological grounds, the quantity used must not be greater than that required to achieve the desired effect.
4. When deciding the concentration of the additives to be used, account must be taken of the maximum daily dose permissible over a very long period, calculated in the light of accurate toxicological information.

The information to be given on packages or containers must be in two of the official languages of the Community, one Germanic and the other Romance, since the information concerned is primarily intended to facilitate the work of official inspectors.

It is important to realize that quality is a complex notion: the quality of a product is not determined by any one isolated property or factor but by a combination of all its chemical, physical, hygienic and organoleptic properties.

It is still too soon to assess how the quality of foods has been affected by the work done on harmonization. But it is already clear that a strict system governing additives, such as the one envisaged by the directives already adopted or under consideration, will certainly have beneficial effects on quality, as elsewhere.

Moreover, where Community regulations for specific groups of products have been or are being worked out, Member States' laws are not aligned on the basis of the lowest common denominator as far as quality is concerned: the work done in Brussels has tended to bring about a steady improvement in the average quality of foodstuffs.

There are also economic problems that may arise just because a satisfactory solution has been found to some quality problem. One need only mention, for example, the very frequent cases in which the solutions adopted have meant that industrial equipment had to be changed in one or more Member States. These difficulties must not, however, be allowed to prejudice the application of essential measures to maintain and improve quality, for it is very clearly one of the duties of the responsible organs of the Community to establish rules that are both equitable and practicable.

The field in which most progress has so far been made is that of additives.

Three directives concerning colouring matter and preservatives which may be used in food have been adopted by the EEC Council.

A proposal for a fourth directive, relating to anti-oxidants used in food, has been submitted to the Council by the Commission.

Preparatory work has begun on emulsifiers and stabilizers.

The sub-group on additives is assisted by a scientific committee made up of members of public health departments in the Member States.

The Commission has submitted to the Council a proposal for a directive on cocoa and chocolate products.

In the field of food preserves in general, the appropriate sub-group is studying a draft regulation on such subjects as the definition of preserves, and rules governing containers, marking and labelling.

The sub-group on processed fruit and vegetables has been working on two drafts to establish Community rules: a draft concerning jams, marmalades and fruit jellies has been submitted to the Commission in the form of a proposal, and a second draft on fruit juices is at present being drawn up.

The Commission's proposal to the Council for a directive relating to anti-oxidants used in food

This proposal contains a single list of substances the use of which is authorized to protect food against deterioration caused by oxidation.

It will of course be necessary to extend harmonization to the conditions governing the use of these substances, but this second stage can only be reached as directives are adopted for each group of foodstuffs.

The proposal contains two sections, one listing the anti-oxidants, the other listing substances intended primarily for other uses but which may also have anti-oxidant properties.

These lists are given below.

.../...

EEC number	Name
I. <u>Anti-oxidants</u>	
E 220	Sulphur dioxide
E 221	Sodium sulphite
E 222	Sodium hydrogen sulphite
E 223	Sodium disulphite (sodium pyrosulphite or sodium metabisulphite)
E 224	Potassium disulphite (potassium pyrosulphite or potassium metabisulphite)
E 225	Calcium disulphite (calcium pyrosulphite or calcium metabisulphite)
E 300	L-ascorbic acid
E 301	Sodium L-ascorbate (sodium salt of L-ascorbic acid)
E 302	Calcium L-ascorbate (calcium salt of L-ascorbic acid)
E 303	Acetic ester of L-ascorbic acid (ascorbyl acetate)
E 304	Palmitic ester of L-ascorbic acid (ascorbyl palmitate)
E 306	Extracts of natural origin rich in toco- pherol
E 307	DL-alpha-tocopherol
E 308	DL-gamma-tocopherol
E 309	DL-delta-tocopherol
E 311	Octyl gallate
E 312	Dodocyl gallate
E 320	Butylhydroxyanisol (BHA)
E 322	Lecithins

.../...

EEC number

Name

II. Substances intended primarily for other uses
but which may also have anti-oxidant properties

E 270	Lactic acid
E 325	Sodium lactate (sodium salt of lactic acid)
E 326	Potassium lactate (potassium salt of lactic acid)
E 327	Calcium lactate (calcium salt of lactic acid)
E 330	Citric acid
E 331	Sodium citrates (sodium salts of citric acid)
E 332	Potassium citrates (potassium salts of citric acid)
E 333	Calcium citrates (calcium salts of citric acid)
E 334	Tartaric acid
E 335	Sodium tartrates (sodium salts of tartaric acid)
E 336	Potassium tartrates (potassium salts of tartaric acid)
E 337	Sodium potassium tartrate
E 338	Orthophosphoric acid
E 339	Sodium orthophosphates (sodium salts of orthophosphoric acid)
E 340	Potassium orthophosphates (potassium salts of orthophosphoric acid)
E 341	Calcium orthophosphates (calcium salts of orthophosphoric acid)
E 345	Sorbitol
E 346	Glycerol

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Proposal for a Council directive relating to the
approximation of legislation concerning cocoa,
chocolate and chocolate products

Chocolate products were chosen to try out the methods used for the harmonization of legislation on foodstuffs because the Benelux countries already had an agreement concerning the adoption of uniform arrangements for these products as part of their effort to approximate legislation, and also because the problems appeared to be of an essentially technical nature, so that a satisfactory outcome of the work could be expected.

The government experts agreed to accept as a basis for their work the definitions of cocoas and chocolates given in the text drawn up in Lausanne in 1950 under the auspices of the International Office of Cocoa and Chocolate and in the 1959 Benelux text.

Chocolate products are governed by national provisions that are very strict and differ among themselves as regards the definition of the raw materials and the composition of the finished products.

Consequently, provisions in force in a given country may hamper trade even though customs tariffs have been reduced.

The annex to the directive gives definitions of the following products: cocoa kernels, cocoa paste, cocoa cake, non-fat or highly defatted cocoa cake, cocoa powder, non-fat or highly defatted cocoa powder, sweetened cocoa powder or chocolate powder, sweetened non-fat cocoa powder or highly defatted sweetened cocoa powder, cocoa butter, chocolate, granulated chocolate and chocolate flakes, Gianduja hazelnut chocolate, coating chocolate, milk chocolate, granulated milk chocolate or milk chocolate flakes, Gianduja hazelnut milk chocolate, milk coating chocolate, filled chocolate.

When the definitions were worked out, two important principles had to be considered: the quality of the products and the protection of consumers had to be assured, and care had to be taken to avoid anything that would hamper trade.

With regard to cocoa butter, it was laid down that:

- (i) cocoa butter extracted by the use of a solvent must contain no trace of such solvent;
- (ii) for use in the products listed in paragraph 1 of the Annex, cocoa butter must not have a degree of acidity higher than 2.25%.

The only solvent authorized for use in extracting cocoa butter is 60/80 petroleum spirit; the government experts and the Commission were given four years from the date of notification of the directive to draw up a list of solvents based on the latest scientific research for submission to the Council.

The addition of aromatics, which is of general interest for the whole foodstuffs sector, lies outside the scope of the directive; the experts therefore proposed that, until a list can be drawn up of aromatic substances for use in foodstuffs, based on reliable toxicological data, only aromatic plants, ground or in the form of extracts or distillates, and also vanillin and ethylvanillin, may be added to cocoa paste and to the various types of cocoa powder, chocolate and milk chocolate.

Article 5 of the proposed directive states that Member States shall authorize only the following weights for bars or blocks of chocolate, Gianduja hazelnut chocolate, milk chocolate, Gianduja hazelnut milk chocolate and filled chocolate weighing more than 75 grammes: 100, 125, 200, 250, 400 or 500 grammes.

Article 6 deals with labelling.

All the delegations were agreed on the need to harmonize the provisions governing the methods of analysis used in the different Member States to control the composition and method of manufacture of the products to which the directive applies.

Proposal for a Council directive on jams, marmalades, fruit jellies and chestnut cream

This directive lays down Community definitions for jams, marmalades, fruit jellies and chestnut cream, and common rules governing their composition, method of manufacture, packaging and labelling.

These Community definitions are a very important factor that will help the common organization of the market in fruit and vegetables to operate efficiently.

The first article of the directive states that the Member States may not, on grounds of composition, method of manufacture, packaging or labelling, prohibit or hinder marketing, under the names assigned to them, of the products listed in Annex II to the directive if they satisfy the common definitions and rules laid down in the directive and its annexes.

The Member States may, for a period of seven years from the date of notification of the directive authorize the manufacture of jam from fruit pulps preserved by means of sulphur dioxide. Paragraph 16 of Annex IV then applies by analogy, and the name of the product must be accompanied by a clear statement to the effect that the product is not as defined in paragraph (b) of Annex II.

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Article 4 lays down that sale of the products defined in Annex II in containers holding between 100 and 2 000 grammes must be at net weights of 225, 250, 450, 500 and 1 000 grammes.

Article 5 requires the Member States, without prejudice to the measures to be adopted by the Council with regard to the labelling of foodstuffs, to take all necessary steps to ensure that when placed on sale the products defined in Annex II bear the following information prominently, clearly and indelibly marked on their containers or labels:

- (a) the name and particulars reserved for such products to the exclusion of all others;
- (b) the net weight, except where this is less than 100 grammes or more than 2 000 grammes;
- (c) the name and address of the manufacturer or the packaging firm or a vendor;
- (d) the country of origin;
- (e) the details specified in Annex IV, where applicable.

Items (a) and (b) above must be in letters at least 5 mm high on containers with a net capacity of 2 000 grammes and over, and at least 3 mm high on containers with a net capacity of 1 000 grammes and less; the letters used for the other items must be at least half as high as those used for items (a) and (b).

A waiver to the rule laid down in Article 1(1) allows Member States to maintain any regulations prohibiting on their territory the marketing of the products defined in Annex II if items (a) and (c) above are not given in their national language on one of the main surfaces of the container.

Under Article 6 the Commission, after consulting the Member States, is to determine the methods of sampling and analysis for checking the composition and method of manufacture of the products defined in Annex II.

Article 7 stipulates that the directive also applies to products imported from non-member countries for consumption in the Community, but not to the products listed in Annex II and intended for export outside the Community.

The Member States are required to take the necessary steps to comply with the directive so that its provisions may be applied within two years of its notification, and to inform the Commission without delay.

Annex I: Definitions to be used for the purposes of the directive on jams, etc.

(a) Fruit

The fresh fruit, sound, free from any deterioration, not lacking any of its essential parts, having reached a degree of ripeness appropriate for the manufacture of the products defined in Annex II, after cleaning, paring, topping, tailing and stoning.

(b) Fruit juice

The juice obtained from the fruit.

(c) Fruit pulp

The edible part of the fruit, whether whole or cut in pieces, but not reduced to purée, subject to the provisions of paragraphs 1, 2 and 3 of Annex IV.

(d) Fruit purée

The fruit pulp, finely divided by sieving or by some other mechanical means.

(e) Chestnuts

The fruit of the sweet chestnut (Castanea sativa)

(f) Ginger

The cleaned edible parts of the ginger root (Zingiber officinale R.)

(g) Sugar

Sucrose of a minimum purity of 99.5% of the dry matter.

(h) Dextrose

Crystallized or anhydrous dextrose of a minimum purity of 99.5% of the dry matter.

(i) Glucose syrup

The product, refined and concentrated, obtained by the controlled hydrolysis of pure food starch, containing at least 80% of dry matter and at least 50% of anhydrous-dextrose equivalent, having an ash content of less than 0.5% and a total sulphur-dioxide content of not more than 20 mg/kg.

(j) Pectic substances

Purified aqueous extract, whether concentrated or not, of apples or citrus fruits, or powdered pectin of apples or citrus fruits.

(k) Refractometric value

The value obtained from a reading, without any correction, on a sugar refractometer at 20°C.

Annex II: Definition of finished products

(a) First-quality jam

Mixture, brought to the appropriate consistency, of sugar and fruit pulp, whether or not pasteurized, deep-frozen or lyophilized, obtained from one only of the fruits listed in Annex III, paragraphs 2 to 4, with a refractometric value of not less than 64 and a fruit content of not less than 50% in the finished product; this percentage shall, however, be reduced to 40% in the case of black currants, to 30% in the case of pineapples or bananas, to 27% in the case of citrus fruits, and to 17% in the case of ginger.

(b) Jam

Mixture, brought to the appropriate consistency, of sugar and fruit pulp, whether or not pasteurized, deep-frozen or lyophilized, obtained from one only of the fruits listed in Annex III, paragraphs 2 to 4, or from two of the fruits mentioned in Annex III, paragraph 4, with a refractometric value of not less than 63 and a fruit content of not less than 35% in the finished product; this percentage shall, however, be reduced to 23% in the case of pineapples or bananas, to 17% in the case of citrus fruits, and to 11% in the case of ginger; where two fruits are used together, the percentage shall be 35% - not less than 12% for each fruit.

(c) Three-fruit jam

Jam as defined in (b) above, obtained from fruit pulp of strawberries and raspberries and from fruit pulp or juice of red currants, whether or not pasteurized, deep-frozen, lyophilized or preserved by means of sulphur dioxide, with a fruit content of not less than 35% in the finished product, each fruit representing one third of this percentage⁽¹⁾.

(d) Four-fruit jam

Jam as defined in (b) above, obtained from fruit pulp of strawberries and cherries and from fruit pulp or juice of raspberries and red currants, whether or not pasteurized, deep-frozen, lyophilized or preserved by means of sulphur dioxide, with a fruit content of not less than 35% in the finished product, each fruit representing one quarter of this percentage⁽¹⁾.

(e) First-quality marmalade

Mixture, brought to the appropriate consistency, of sugar and of fruit purée or of fruit pulp and fruit purée, whether or not pasteurized, deep-frozen or lyophilized, obtained from one only of the fruits listed in Annex III, paragraphs 2 to 4, with a refractometric value of not less than 64 and a fruit content of not less than 50% in the finished product; this percentage shall, however, be reduced to 40% in the case of black currants, to 30% in the case of pineapples or bananas, to 27% in the case of citrus fruits, and to 17% in the case of ginger.

(1) The quantities and percentages of fruit referred to in (c), (d) and (f) above also include the fruit juice.

(e) Marmalade

Mixture, brought to the appropriate consistency, of sugar and of fruit purée or of fruit pulp and fruit purée, with or without the addition of fruit juice, whether or not pasteurized, deep-frozen, lyophilized or preserved by means of sulphur dioxide, obtained from two of the fruits listed in Annex III, paragraphs 3 and 4, at least one of these fruits being among those listed in paragraph 3, with a refractometric value of not less than 60 and a fruit content of not less than 30% in the finished product, the content of the fruits listed in Annex III, paragraph 4 being, in the case of a mixture of fruits listed in Annex III, paragraphs 3 and 4, not less than 18%; the latter percentage shall, however, be reduced to 10% in the case of citrus fruits and to 7% in the case of ginger⁽¹⁾.

(g) Three-fruit marmalade

Marmalade as defined in (f) above, obtained from three fruits.

(h) Four-fruit marmalade

Marmalade as defined in (f) above, obtained from four fruits.

(i) Mixed marmalade

Marmalade as defined in (f) above, obtained from more than four fruits.

(j) First-quality jelly

Mixture, sufficiently solidified, of sugar and fruit juice whether or not pasteurized, deep-frozen or lyophilized, obtained from one only of the fruits listed in Annex III, paragraphs 3 and 4, or from raspberries and red currants, with a refractometric value of not less than 64 and a fruit-juice content of not less than 50% in the finished product; this percentage shall, however, be reduced to 40% in the case of citrus fruits.

(k) Jelly

Mixture, sufficiently solidified, of sugar and fruit juice, whether or not pasteurized, deep-frozen, lyophilized or preserved by means of sulphur dioxide, obtained from one only of the fruits listed in Annex III, paragraphs 3 and 4, or from raspberries and red currants, with a refractometric value of not less than 63 and a fruit-juice content of not less than 35% in the finished product; this percentage shall, however, be reduced to 30% in the case of citrus fruits.

(l) Chestnut cream

Mixture of sugar and chestnut purée, whether or not preserved, with a refractometric value of not less than 60 and a chestnut-purée content of not less than 38% in the finished product.

(1) The quantities and percentages of fruit referred to in (c), (d) and (f) above also include the fruit juice.

Annex III: Fruits

1. All varieties of pumpkins and cucumbers, with the exception of melons (Cucumis melo) and watermelons (Citrullus vulgaris).
2. Tomatoes, rhubarb and melons (Cucumis melo).
3. Apples, pears, plums with stones adhering to the flesh, watermelons (Citrullus vulgaris), grapes (genus Vitis).
4. Ginger and all edible fruits other than those listed in paragraphs 1 to 3, with the exception of chestnuts, the use of which is confined to chestnut cream.

Annex IV: Special provisions for the manufacture and labelling of the products defined in Annex II

1. Mulberries, red currants, black currants and raspberries intended for the manufacture of the products defined in Annex II may have the seeds removed, either wholly or in part, by sieving; where the use of two of these fruits is permitted, only one of these may have the seeds removed, either wholly or in part, by sieving.
2. Citrus fruits intended for the manufacture of the products defined in Annex II must have the pips removed by sieving and the internal membranes removed, and may have the peel removed, either wholly or in part.
3. Rose hips (fruits of the genus Rosa) intended for the manufacture of the products defined in Annex II must have the seeds removed by sieving and the inedible parts removed.
4. Ginger may be preserved in an aqueous sugar solution.
5. Chestnuts intended for the manufacture of chestnut cream may first be soaked for a short time in water containing sulfurous acid; the sulphur-dioxide content in the finished product must not, however, exceed 10 gm/kg.
6. Pectic substances may be added to the products defined in Annex II (a-k) up to a pectin content, expressed as calcium pectate, of 0.7% in the finished product or of 1.0% in containers having a capacity of 5 kg or more.
7. The names of the fruits used must be added to the description of the products defined in Annex II (a-k) as follows:
 - (a) first quality jam and jam from citrus fruits may bear the additional wording: "first-quality marmalado" or "marmalado" respectively;
 - (b) where there is a mixture of fruits listed in Annex III, paragraph 3 or paragraph 4, the names of the fruits used must be mentioned in descending order of quantity contained therein;
 - (c) where there is a mixture of fruits listed in Annex III, paragraphs 3 and 4, the names of the fruits listed in paragraph 3 must be mentioned first;

- (d) in the case of three-fruit jam and four-fruit jam, the names of the fruits used may be replaced by a picture of these fruits;
 - (e) in the case of three-fruit marmalade, four-fruit marmalade and mixed marmalade, pictures of the fruits concerned must not be shown on the label or containers;
 - (f) in the case of four-fruit marmalade and mixed marmalade, the names of the fruits used may not be mentioned.
8. Dried apricots may be used for the manufacture of the products defined in Annex II (e) and (f) placed on sale in containers with a net capacity of at least 2 500 grammes. In such case, no other fruits may be used, nor may pictures of the fruits concerned be shown on the label or container, and the description of the product must be accompanied by the following wording:
- (a) "of dried apricots" and
 - (b) "for pastries" and/or "for confectionery".
9. For the manufacture of the products defined in Annex II:
- (a) sugar may be replaced by dextrose, either wholly or in part;
 - (b) the sugar may be in aqueous solution, invert either in part or not at all.
10. For the manufacture of the products defined in Annex II glucose syrup may be used instead of sugar, in which case the total glucose-syrup content in the finished product may not exceed 15% for the products defined in Annex II (a-k) and 5% for chestnut cream.
11. The following may be added to the products defined in Annex II:
- (a) citric acid, lactic acid and their salts of calcium, potassium and calcium, tartaric acid and L-ascorbic acid, whether or not mixed together, the total L-ascorbic-acid content in the finished product not exceeding 150 mg/kg except in the case of products obtained from rose hips or arbutus berries;
 - (b) sorbic acid and salts of sodium, potassium and calcium, the total sorbic-acid content in the finished product not exceeding 0.5 g/kg.
12. Vanillin, whether or not in extract or synthetic form, ethylvanillin and caramel (E 150) may be added to chestnut cream.
- The leaves of Pelargonium odoratissimum, the peel of citrus fruits, vanillin, whether or not in extract or synthetic form, and ethylvanillin may be added to quince marmalade.

The description of the products must be accompanied by the word "flavoured" and by the name of the substance added.

13. The products defined in Annex II (b-d) and (f) and obtained from strawberries, raspberries, red currants, any variety of cherries, watermelons, rose hips or plums, but not greengages or mirabelle plums, as also the products defined in Annex II(g-i), may be coloured with colouring matters in order to restore the natural colour of the fruit. The description of the product must be accompanied by the word "coloured".
14. Natural fruit juices may be added to the products defined in Annex II, but not to chestnut cream, in order to deepen the natural colour of the fruit.

Where fruit juice is used for the manufacture of the products defined in Annex II or added to these products in accordance with the foregoing sub-paragraph, the use of fruit-juice concentrates is permitted. In such case, the quantities and percentages of fruit juice referred to in Annex II shall correspond to the quantity of fruit juice used.

15. The products defined in Annex I (g) and Annex II (a), (b), (e) and (j) may not contain sulphur dioxide.

If the sulphur-dioxide content found when the product is analysed does not exceed 5 mg/kg of the finished product, the product is deemed to be free of sulphur dioxide.

16. In the case of the products defined in Annex II (c), (d), (f-i) and (k), the total sulphur-dioxide content in the finished product must not exceed 50 mg/kg.

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