

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 441 final

Brussels, 14 November 1991

Proposal for a

COUNCIL DIRECTIVE

on infant formulae and follow-on formulae
intended for export to third countries

Proposal for a

COUNCIL RESOLUTION

on the marketing practices for breast-milk substitutes in
developing countries by Community-based manufacturers

(presented by the Commission)

EXPLANATORY MEMORANDUM

In conformity with article 4 of Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses⁽¹⁾, Commission Directive 91/321/EEC⁽²⁾ on infant formulae and follow-on formulae was adopted on 14.5.1991. This Commission Directive lays down, amongst others, provisions relating to the composition and the labelling of these products.

Given the section of the population for which these products are intended, it is felt that the abovementioned particular rules should also apply to products intended for export to third countries.

Taking into account the framework of Community legislation within which these rules have to be adopted and for the sake of coherence, all the abovementioned rules applicable to products intended for export to third countries are included in one legal measure.

Commission Directive 91/321/EEC lays down in addition provisions relating to advertising and other marketing practices. The Community cannot regulate such practices taking place in third countries nor indeed can effectively control them. In relation to this point however it should be noted that a proposal for a Council resolution relating to marketing practices for breast milk substitutes in developing countries by Community based manufacturers is also being put forward by the Commission.

(1) O.J. N° L 186 of 30.6.1989, p. 27

(2) O.J. N° L 175 of 4.7.1991, p. 35

Proposal for a
Council Directive
on Infant formulae and follow-on formulae
intended for export to third countries.

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community and in particular Article 113 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Whereas Community rules concerning infant formulae and follow-on formulae are laid-down in Commission Directive 91/321/EEC⁽²⁾ ;

Whereas given the nature of the products in question it is desirable that Community rules or international standards relating to their composition are made applicable to such products intended for export to third countries ;

Whereas in order to prevent inappropriate use of these products which could prejudice the health of infants it is also desirable to extend the application of the Community rules on labelling of infant formulae and follow-on formulae to those products intended for export to third countries,

HAS ADOPTED THIS DIRECTIVE :

Article 1

This Directive concerns infant formulae and follow-on formulae as defined by article 1.2.c. and d of Directive 91/321/EEC intended for export to third countries.

(1)

(2) O.J. N° L 175 of 4.7.1991, p. 35

Article 2

The products referred to in article 1 must be in conformity :

- a) with the provisions of articles 3, 4, 5 and 6 of Directive 91/321/EEC or with relevant applicable world standards established by Codex Alimentarius ;
- b) with the provisions of article 7 paragraphs 2 to 6 of Directive 91/321/EEC

unless otherwise requested or stipulated by provisions established by the importing country.

Article 3

Member States shall take the necessary measures to comply with this Directive. They shall forthwith inform the Commission thereof. Those measures shall be applied in such a way as to :

- permit exports of products complying with this Directive, by 1 December 1992 ;
- prohibit exports of products which do not comply with this Directive, with effect from 1 June 1994.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by the Member States.

Article 4

This Directive is addressed to the Member States.

Done at

For the Council

Proposal for a
COUNCIL RESOLUTION

on the marketing practices for breast-milk substitutes in
developing countries by Community-based manufacturers.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas Council Directive .../.../EEC on infant formulae and follow-on formulae intended for export to third countries render applicable to such products a number of Community provisions relating to the composition and the labelling of infant formulae and follow-on formulae;

Whereas in May 1981 the 34th World Health Assembly adopted as a recommendation the International Code of Marketing of Breast-milk Substitutes;

Whereas a considerable volume of these products are sold to developing countries by Community-based manufacturers;

Whereas it is considered very important that marketing practices in developing countries should not discourage mothers from breastfeeding;

Whereas the application of the International Code provides without doubt an excellent way to achieve this in these countries;

Whereas the Community cannot legislate for these countries;

Whereas the Community can offer an effective support to the competent authorities of these countries in their efforts to apply the International Code in their territory,

HAS ADOPTED THE FOLLOWING RESOLUTION :

1. The Community will contribute, in so far as it is able, to the application of appropriate marketing practices for breast-milk substitutes in developing countries.
2. For the implementation of point 1, the Commission will instruct its delegations in the developing countries to serve as contact points for the competent authorities. Any complaints or criticisms with respect to the marketing practices of a manufacturer based in the Community could be notified to them.
3. The Commission will be ready to examine such cases and to assist in the search for a satisfactory solution for all parties concerned.
4. This resolution shall be communicated by the Commission to the countries concerned through the official channels.

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