COMMISSION DECISION

of 27 September 1991

calling upon the Kingdom of Spain to postpone the adoption of a draft regulation in respect of the labelling of confectionery containing polyalcohols

(Only the Spanish text is authentic)

(91/551/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 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 [1], as last amended by Directive 91/72/EEC [2], and in particular Articles 16 and 17 thereof,

Whereas, pursuant to the procedure laid down in Article 16 (2) of Directive 79/112/EEC, the Spanish authorities notified the Commission of their intention to adopt a draft hygiene regulation relating to the manufacture, distribution and marketing of sweets, chewing gum and other types of confectionery;

Whereas the draft regulation includes labelling rules requiring that the packaging of products containing polyalcohols carry warnings to that effect and that this category of additives be given its specific name in the list of ingredients, with a consequent ban on the use of the specific EEC number;

Whereas, in accordance with Article 16 (2) of Directive 79/112/EEC, the Commission has consulted the other Member States within the Standing Committee on Foodstuffs;

Whereas it has been generally acknowledged that the warnings which the Spanish authorities wish to make mandatory are necessary to ensure proper consumer information;

Whereas, however, for Spain to apply such a measure unilaterally would be bound to hamper intra-Community trade considerably;

Whereas, moreover, the provision of the Spanish draft regulation which bans the use of the EEC number contravenes the second indent of Article 6 (5) (b) and Article 14 of Directive 79/112/EEC; whereas a Community derogation does not appear justified;

Whereas, as regards the warnings, the most satisfactory solution would be to draw up Community provisions;

Whereas any national initiative in this area should therefore be postponed for a suitable period;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DECISION:

Article 1

1. The Kingdom of Spain shall, for a period of 12 months from the notification of this Decision, postpone the adoption of its draft regulation in respect of the measures requiring certain warnings to be given on the labelling of sweets, chewing gum and other types of confectionery containing polyalcohols.

2. Any national regulation adopted by the Kingdom of Spain after the abovementioned 12 month period and in the absence of relevant Community provisions may not ban the use of the EEC number to designate polyalcohols in the

[1] OJ No L 33, 8. 2. 1979, p. 1.
[2] OJ No L 42, 15. 2. 1991, p. 27.

list of ingredients of products containing that category of additives.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 27 September 1991.

For the Commission

Martin BANGEMANN

Vice-President