COUNCIL DIRECTIVE

of 30 June 1980

amending for the seventh time Directive 73/241/EEC on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption

(80/608/EEC)

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 Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to paragraph 2 (b) (iii) of Annex II to Council Directive 73/241/EEC (4), as last amended by Directive 78/842/EEC (5), Member States can retain authorization of the use in cocoa and chocolate products of the emulsifiers listed in paragraph 2 (a) (iii) of that Annex;

Whereas the use of ammonium phosphatides (ammonium salts of phosphatidic acids) appears to offer technological advantages since they do not alter the organoleptic properties of the cocoa and chocolate products to which they are added;

Whereas the use of ammonium salts of phosphatidic acids does not pose any danger to public health since, pursuant to the rule set out in Annex I (6) concerning lecithins, this use is accompanied by the stipulation of a total phosphatide level which must not be exceeded in the finished product and which is fixed by taking into account the natural phosphatide content of cocoa beans;

Whereas all the Member States should therefore be afforded the possibility of authorizing the use of these substances and of deciding at a later date, on the basis of experience, on the possibility of generalized use thereof throughout the Community;

Whereas any decision designed to extend the use of glycerol polyricinoleate and sorbitan tristearate in cocoa and chocolate products should be postponed;

Whereas the absence of reliable data on consumption of cocoa and chocolate products throughout the Community makes it impossible to assess the amounts of each of these two substances which could be absorbed by consumers; whereas, therefore, it is currently impossible to state categorically that no danger to human health exists;

Whereas, moreover, a further thorough examination is necessary in order to justify the use of these substances from the technological standpoint,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 73/241/EEC shall be amended as follows:

1. Annex II shall be supplemented by the following paragraph:

'1. (a) Member States may authorize the addition of ammonium salts of phosphatidic acids to the cocoa and chocolate products referred to in Annex I (1) with the exception of cocoa nib.

The name of the product shall be accompanied by the declaration of this addition and its percentage, except when ammonium salts of phosphatidic acids are added to the various kinds of chocolate referred to in Annex I under headings 1.16 to 1.28.

If ammonium salts of phosphatidic acids are used, the maximum percentages laid down in the third subparagraph of Annex I (6) shall also apply.

The Council may, in accordance with the procedure laid down in Article 100 of the Treaty, include this substance in Annex I.'

2. The text of Annex II (2) (a) (iii) shall be replaced by the following:

'(iii) polyglycerol polyricinoleate and sorbitan tristearate in the cocoa and chocolate products referred to in the first subparagraph of Annex I (6).'

(1) OJ No C 89, 10. 4. 1980, p. 5.
(2) OJ No C 34, 11. 2. 1980, p. 103.
(3) OJ No C 247, 1. 10. 1979, p. 12.
(4) OJ No L 228, 16. 8. 1973, p. 23.
(5) OJ No L 291, 17. 10. 1978, p. 15.

3. In Annex II (2) (b) (iii) the date '20 June 1979' shall be replaced by '31 December 1983'.

Article 2

This Directive shall take effect from 21 June 1979.

Article 3

Member States shall take the measures necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 30 June 1980.

For the Council

The President

V. BALZAMO