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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 11 December 1973

on the approximation of the laws of the Member States concerning certain sugars intended for human consumption

(73/437/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas the laws, regulations and administrative provisions in force in the Member States define certain categories of sugar, give the definitions and characteristics of composition applicable thereto, and lay down rules for the labelling and packing of these products;

Whereas the differences between national provisions are such as may impede the free movement of these products and create unfair competition;

Whereas, also, the smooth running of the common organization of the market in sugar (sucrose) requires that the various qualities of this product placed on the market, their composition characteristics and the

rules for their labelling and packing should be determined at Community level;

Whereas the choice of means for the taking of samples, and the methods of analysis necessary for checking the composition and manufacturing characteristics of products in question, are practical measures of a technical nature and whereas their adoption should be entrusted to the Commission in order to simplify and expedite the procedure;

Whereas in all the cases in which the Council confers on the Commission authority to implement rules drawn up in the foodstuffs sector a procedure should be laid down establishing a close cooperation between the Member States and the Commission within the Standing Committee on Foodstuffs set up by the Council Decision of 13 November 1969 ⁽³⁾;

Whereas the establishment of a total residual sulphur dioxide content for the products covered by this Directive, necessitates an adaptation of production conditions in some Member States such that a transitional period must be laid down in order to allow the necessary adaptations; whereas in respect of glucose syrup, whether dehydrated or not, the derogations thus laid down shall apply to the whole of the Community; whereas in respect of other products these derogations may be limited to the Member States which so desire,

⁽¹⁾ OJ No C 101, 4. 8. 1970, p. 33.

⁽²⁾ OJ No C 146, 11. 12. 1970, p. 20.

⁽³⁾ OJ No L 291, 19. 11. 1969, p. 9.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Within the meaning of this Directive:

1. *Semi-white sugar*

means purified and crystallized sucrose, of sound and fair marketable quality with the following characteristics:

- | | |
|--------------------------------------|--------------------------------|
| (a) polarization | not less than 99.5° |
| (b) invert sugar content | not more than 0.10 % by weight |
| (c) loss on drying | not more than 0.10 % by weight |
| (d) residual sulphur dioxide content | not more than 15 mg/kg. |

2. *Sugar or white sugar*

means purified and crystallized sucrose, of sound and fair marketable quality, with the following characteristics:

- | | |
|--------------------------------------|--|
| (a) polarization | not less than 99.7° |
| (b) invert sugar content | not more than 0.04 % by weight |
| (c) loss on drying | not more than 0.10 % by weight |
| (d) residual sulphur dioxide content | not more than 15 mg/kg |
| (e) type of colour | not more than 12 points determined according to Annex under (a). |

3. *Extra white sugar*

means the product having the characteristics referred to in point 2(a) to (d) and in respect of which the total number of points determined according to the provisions of the Annex does not exceed a total of 8 or not more than:

- 4 for the colour type
- 6 for the ash content
- 3 for the colour in solution.

4. *Sugar solution*

means the aqueous solution of sucrose with the following characteristics:

- | | |
|---|--|
| (a) dry matter | not less than 62 % by weight |
| (b) invert sugar content (ratio of fructose to dextrose: 1.0 ± 0.2) | not more than 3 % by weight of dry matter |
| (c) conductivity ash | not more than 0.1 % by weight of dry matter, determined according to the Annex under (b) |
| (d) colour in solution | not more than 45 ICUMSA units determined according to the Annex under (c) |
| (e) residual sulphur dioxide content | not more than 15 mg/kg of dry matter. |

5. *Invert sugar solution*

means the aqueous solution of sucrose partially inverted by hydrolysis, in which the proportion of invert sugar does not predominate, with the following characteristics:

- | | |
|--|---|
| (a) dry matter | not less than 62 % by weight |
| (b) invert sugar content (ratio of fructose to dextrose: 1.0 ± 0.1) | more than 3 % but not more than 50 %, by weight of dry matter |
| (c) conductivity ash | not more than 0.4 % by weight of dry matter determined according to the Annex under (b) |
| (d) residual sulphur dioxide content | not more than 15 mg/kg of dry matter. |

6. *Invert sugar syrup*

means the aqueous solution, possibly crystallized, of sucrose partially inverted by hydrolysis, in which the proportion of invert sugar is predominant, with the following characteristics:

- | | |
|--|---|
| (a) dry matter | not less than 62 % by weight |
| (b) invert sugar content (ratio of fructose to dextrose: 1.0 ± 0.1) | more than 50 % by weight of dry matter |
| (c) conductivity ash | not more than 0.4 % by weight of dry matter determined according to the Annex under (b) |
| (d) residual sulphur dioxide content | not more than 15 mg/kg of dry matter. |

7. *Glucose syrup*

means the purified and concentrated aqueous solution of nutritive saccharides obtained from starch, with the following characteristics:

- | | |
|---|--|
| (a) dry matter | not less than 70 % by weight |
| (b) dextrose equivalent | not less than 20 % by weight of dry matter and expressed as D-glucose |
| (c) sulphated ash | not more than 1.0 % by weight of dry matter |
| (d) total sulphur dioxide content: | |
| — in general | not more than 20 mg/kg |
| — for use exclusively in sugar confectionary products | the Member States may, without prejudice to the national or Community provisions which determine the maximum sulphur dioxide content for the various confectionary products, fix the tolerance for glucose syrup offered for sale in their own territory at more than 20 mg/kg but not more than 400 mg/kg |

— for use in other specified foodstuffs

the Member States may, in accordance with national provisions governing these foodstuffs, and without prejudice to Community provisions, fix the tolerances for glucose syrup offered for sale in their own territory at more than 20 mg/kg, but not more than 400 mg/kg provided that these tolerances are justified by technological requirements.

8. *Dried glucose syrup*

means glucose syrup partially dried with the following characteristics:

- | | |
|--|---|
| (a) dry matter | not less than 93 % by weight |
| (b) dextrose equivalent | not less than 20 % by weight of dry matter expressed as D-glucose |
| (c) sulphated ash | not more than 1.0 % by weight of dry matter |
| (d) total sulphur dioxide content: | |
| — in general | not more than 20 mg/kg |
| — for use exclusively in sugar confectionary | not more than 150 mg/kg. This tolerance, however, shall not affect national or Community provisions which fix the maximum sulphur dioxide content for the various confectionery products |
| — for use in other specified foodstuffs | the Member States may, in accordance with national provisions governing these foodstuffs, and without prejudice to Community provisions, fix the tolerances for glucose syrup offered for sale in their own territory at more than 20 mg/kg but not more than 150 mg/kg provided that these tolerances are justified by technological requirements. |

9. *Dextrose monohydrate*

means purified and crystallized D-glucose containing one molecule of water of crystallization, with the following characteristics:

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|-----------------------------------|--|
| (a) dextrose (D-glucose) | not less than 99.5 % by weight of dry matter |
| (b) dry matter | not less than 90.0 % by weight |
| (c) sulphated ash | not more than 0.25 % by weight of dry matter |
| (d) total sulphur dioxide content | not more than 15 mg/kg. |

10. *Dextrose anhydrous*

means purified and crystallized D-glucose not containing water of crystallization, with the following characteristics:

- | | |
|-----------------------------------|--|
| (a) dextrose (D-glucose) | not less than 99.5 % by weight of dry matter |
| (b) dry matter | not less than 98.0 % by weight |
| (c) sulphated ash | not more than 0.25 % by weight of dry matter |
| (d) total sulphur dioxide content | not more than 15 mg/kg. |

Article 2

Member States shall take all measures necessary to ensure that the products referred to in Article 1 may be offered for sale only if they conform to the definitions and rules laid down in this Directive and in the Annex thereto.

Article 3

1. The names listed in Article 1 shall be applied only to the products defined therein and must be used in trade to designate them; the description referred to in Article 1 (2) may also be used to designate the product defined in Article 1 (3).

Furthermore, the description 'white' shall be reserved:

- (a) for sugar solution where the colour in solution does not exceed 25 ICUMSA units, determined according to the method provided for in the Annex, under (c);
- (b) for invert sugar solution and for invert sugar syrup of which:
 - the ash content does not exceed 0.1 %
 - the colour in solution does not exceed 25 ICUMSA units determined according to the method provided for in the Annex under (c).

2. The provisions of paragraph 1 shall not however affect arrangements whereby these names can be used, additionally, in accordance with custom, to indicate other products, which cannot be confused with those defined in Article 1.

3. Moreover, as regards the use of the word 'sugar' without any other qualifying term, paragraph 1 shall apply only to direct trade in food sugars as such, and not to compound products in which such sugars have been used.

Article 4

By way of derogation from Article 1, points (7) and (8), a maximum residual sulphur dioxide content equivalent to 40 mg/kg in the products defined in the aforementioned points shall be authorized for a period of three years from the notification of this Directive.

Article 5

By way of derogation from Article 1, points (1), (2), (3), (4), (5), (6), (9) and (10) and for a period of five

years from the notification of this Directive, Member States may continue to apply national provisions authorizing a maximum residual sulphur dioxide content up to 20 mg/kg in respect of products marketed in their territory.

Article 6

Without prejudice to any relevant national provisions, the products referred to in Article 1, points (7) and (8), which contain a quantity of sulphur dioxide exceeding 20 mg/kg may not be offered for retail sale.

Article 7

The products referred to in Article 1:

- may not be submitted to the blueing process,
- may contain colorants in so far as they are intended for use in other foodstuffs, in accordance with the provisions applicable to the said foodstuffs and to the use of colouring agents therein.

Article 8

1. The products referred to in Article 1, points (1) to (3) when packed at a net individual weight of between 100 g and 5 kg shall be offered for sale only at the following individual net weights: 125 g, 250 g, 500 g, 750 g, 1 kg, 1.5 kg, 2 kg, 2.5 kg, 3 kg, 4 kg and 5 kg.

2. On a transitional basis, for a period of not more than five years after notification of this Directive, weights, net or gross, other than those listed in paragraph 1 shall also be allowed if these weights comply with the national provisions in force or with practices existing at the time of notification of this Directive.

Article 9

1. The only information which is compulsory on the packages, containers or labels of the products defined in Article 1 shall be the following:

- (a) the description by which the products are designated in Article 1; however:
 - the expressions 'monohydrate' and 'anhydrous' shall be optional for the retail trade description of the products defined in Article 1, points (9) and (10),

- the qualifying expression 'includes colouring agents' shall be obligatory in the description of products containing colouring agents, in conformity with Article 6, and the term 'white' shall be prohibited in this case;
- (b) the net weight, unless the products weigh less than 50 g; this exception shall not apply to products weighing less than 50 g each presented in packages containing 2 or more such products whose net weight inclusive of packaging is not less than 50 g, in which case, the total net weight of the products contained in the outer package must be indicated thereon; however, as regards the products referred to in Article 1, points (1), (2), (3), (9) and (10) the indication of net weight may be replaced by that of the minimum net weight if the products are offered for sale in pieces or in small sachets;
- (c) the name or trade name and the address or registered office of the manufacturer or packer, or of a seller established within the Community; this provision does not affect the right of the manufacturer to require that either his name or his trade name be mentioned;
- (d) an indication of the true content of dry matter and invert sugar in the case of sugar solution, invert sugar solution, and invert sugar syrup;
- (e) the qualifying term 'crystallized' for invert sugar syrup incorporating crystals in the solution;
- (f) the description of glucose syrup or dried glucose syrup of which the sulphur dioxide content exceeds 20 mg/kg or, in the circumstances referred to in Article 4, exceeds 40 mg/kg, shall be followed by a reference to the foodstuff for the manufacture of which it is intended, the maximum sulphur dioxide content of the product being indicated on the accompanying documents.

2. The specifications referred to in paragraph 1 must be conspicuous, clearly legible and indelible.

3. The provisions of paragraph 1 shall not preclude the products defined in Article 1 bearing, in addition to the obligatory description, other descriptions current in the various Member States provided that the latter descriptions are not liable to mislead consumers.

4. Where the products defined in Article 1 are made up into packages or in containers of a net weight equal to or exceeding 10 kg and are not

offered for retail sale, the descriptions referred to in paragraph 1 (b), (d), (e) and (f) may if desired appear only on the accompanying documents.

5. By way of derogation from paragraph 1, and without prejudice to the provisions to be adopted by the Community on the labelling of foodstuffs, Member States may retain national provisions which require indication of:

- (a) the factory, in respect of home production;
- (b) the country of origin, although this information may not be required for products manufactured within the Community.

6. Member States shall refrain from stating, apart from what is laid down in paragraphs 1 and 2, how the information referred to in paragraph 1 is to be given. However, Member States may forbid trade on their territory in the products defined in Article 1 if the markings laid down in paragraph 1 (a), (d), (e) and (f) are not shown on one side of the wrapping or container in the national language or languages or, as provided in paragraph 4, in the accompanying documents.

However, in Ireland and the United Kingdom during the transitional period provided for in Article 8 (2) any weights other than metric shall, if those Member States so require, be labelled with their metric equivalents.

7. Paragraphs 1 to 6 shall apply without prejudice to the provisions to be laid down by the Community on labelling.

Article 10

1. Member States shall adopt all the necessary measures to ensure that trade in the products referred to in Article 1, which comply with the definitions and rules laid down in this Directive and the Annex thereto, shall not be impeded by the application of national non-harmonized provisions governing the composition, manufacturing specifications, packaging or labelling of these products in particular or of foodstuffs in general.

2. Paragraph 1 shall not be applicable to non-harmonized provisions justified on grounds of:

- protection of public health,
- repression of frauds, unless such provisions are liable to impede the application of the definitions and rules laid down by this Directive,

- protection of industrial and commercial property, of indications of source, applications of origin and the repression of unfair competition.

Article 11

The sampling procedures and methods of analysis needed to verify the rules relating to the composition and manufacturing specifications of the products defined in Article 1 shall be determined in accordance with the procedure laid down in Article 12.

Article 12

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee on Foodstuffs, set up by the Council Decision of 13 November 1969 (hereinafter called 'the Committee') by its Chairman, either on his own initiative or at the request of a representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on that draft within the time limit set by the Chairman having regard to the urgency of the matter. Opinions shall be adopted by a majority of forty-one votes the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. (a) Where the measures envisaged are in accordance with the opinion of the Committee, the Commission shall adopt them.
- (b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.
- (c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 13

The provisions of Article 12 shall apply for a period of eighteen months from the date on which the matter was first referred to the Committee, under Article 12 (1).

Article 14

This Directive shall not apply to:

- (a) products defined in Article 1 in so far as they take the following forms:
 - impalpable sugars,
 - candy sugars,
 - sugars in loaf form;
- (b) products intended for export to countries outside the Community.

Article 15

Member States shall, if necessary, within one year following the notification of this Directive, amend their laws in accordance with the provisions of this Directive and shall forthwith inform the Commission thereof. The laws thus amended shall apply to the products offered for sale in the Member States two years after the notification of this Directive.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 11 December 1973.

For the Council

The President

Ib FREDERIKSEN

ANNEX**Method of determining the colour type, ash content, and the colour in solution of sugar (white) and of extra-white sugar defined in Article 1 (2) and (3)****A 'point' corresponds:**

- (a) in the case of the colour type, to 0.5 units, calculated by the method of the Brunswick Institute for Agricultural and Sugar Industry Technology as set out in A, paragraph (2) of the Annex to Commission Regulation (EEC) No 1265/69 ⁽¹⁾ of 1 July 1969 establishing methods for determining the quality of sugar bought in by intervention agencies;
 - (b) in the case of ash content, to 0.0018 % calculated by the method of the International Commission for Uniform Methods of Sugar Analysis (ICUMSA) as set out in A, paragraph (1) of the Annex to the said Regulation;
 - (c) in the case of the colour in solution, to 7.5 units calculated by the ICUMSA method as set out in A, paragraph (3) of the Annex to the said Regulation.
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⁽¹⁾ OJ No L 163, 4. 7. 1969, p. 1.