

COUNCIL DIRECTIVE

of 27 June 1977

on the approximation of the laws of the Member States relating to coffee extracts and chicory extracts

(77/436/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,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas the provisions laid down by law, regulation or administrative action in force in certain Member States define coffee extracts and chicory extracts, determine the substances which may be added during the manufacture thereof and lay down specific rules with regard to their labelling;

Whereas the differences existing between these measures constitute a barrier to freedom of movement of coffee extracts and chicory extracts, thus obliging the undertakings engaged in the manufacture thereof in the Community to differentiate their products according to the Member State for which such products are destined; whereas they have, thereby, a direct bearing on the establishment and functioning of the common market;

Whereas for these reasons and in order to protect and inform consumers it is necessary to determine at Community level the rules which must be observed with regard to the composition of these products, the substances which may be used in the manufacture thereof, the packaging materials and the labelling thereof and to lay down the conditions on which specific designations may be used for certain of these products;

Whereas, however, it is not possible in this Directive to harmonize all those provisions applying to foodstuffs which may impede trade in coffee extracts and chicory extracts, although any obstacles that remain as a result are bound to decrease as national provisions relating to foodstuffs are increasingly harmonized;

Whereas the determination of the procedures relating to the taking of samples and to the methods of

analysis necessary for checking the composition and manufacturing characteristics of these products is an implementing measure of a technical nature and the adoption thereof should be assigned to the Commission with the aim of simplifying and accelerating the procedure;

Whereas in all cases in which the Council confers on the Commission the power to enforce the rules drawn up in the field of foodstuffs, it is necessary to provide for a procedure for setting up close cooperation between the Member States and the Commission within the Standing Committee on Foodstuffs established by Decision 69/414/EEC⁽³⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive concerns the coffee extracts and chicory extracts referred to in the Annex.
2. For the purposes of this Directive:
 - (a) coffee extracts are the products in any concentration obtained by extraction from roasted coffee using only water as the medium of extraction and excluding any process of hydrolysis involving the addition of an acid or a base and,
 - (i) containing the soluble and aromatic constituents of coffee,
 - (ii) which may contain insoluble oils derived from coffee, traces of other insoluble substances derived from coffee and insoluble substances not derived from coffee or from the water used for extraction;
 - (b) chicory extracts are the products in any concentration obtained by extraction from roasted chicory using only water as the medium of extraction and excluding any process of hydrolysis involving the addition of an acid or a base.

For the purposes of this Directive chicory is the product in granular or powder form obtained from roots of *Chicorium Intybus* L., not used for the production of witloof chicory, suitably cleaned,

⁽¹⁾ OJ No C 83, 11. 10. 1973, p. 19.

⁽²⁾ OJ No C 37, 1. 4. 1974, p. 1.

⁽³⁾ OJ No L 291, 19. 11. 1969, p. 9.

dried and roasted whether or not containing small quantities of added nutrient oils or fats and/or sugars and/or molasses; they may contain traces of insoluble substances not derived from chicory.

Article 2

1. Member States shall take all measures necessary to ensure that the products listed in the Annex may be offered for sale only if they comply with the definitions and rules laid down in this Directive and its Annex.

2. Blends of coffee extracts and chicory extracts and extracts of blends of roasted coffee and roasted chicory may be offered for sale only if:

- these products comply *mutatis mutandis* with the definitions laid down in the Annex, and
- should they be in solid or paste form, they comply with Article 4.

Article 3

1. Only raw materials which are sound, genuine and of merchantable quality may be used in the manufacture of the products referred to in the Annex.

2. Acting on a proposal from the Commission, the Council shall:

- determine the list of and criteria of purity for solvents which may be used for the decaffeination of the products referred to in paragraph 1 of the Annex, as well as the maximum levels for residues from the said solvents,
- fix the maximum level for insoluble substances for the products referred to in paragraph 1 of the Annex.

3. Member States may authorize within their territory the use of anti-caking agents:

- for the products referred to in paragraph 1 (a) of the Annex when they are used in vending machines and specifically labelled as such,
- for the products referred to in paragraph 2 (a) of the Annex.

Article 4

1. Products in solid or in paste form referred to in the Annex, when put up in individual packages of a nominal weight of more than 25 g but not exceeding 10 kg, shall be offered for retail sale in packages of the following nominal weights only: 50 g, 100 g, 200 g, 250 g, 500 g, 750 g, 1 kg, 1.5 kg, 2 kg, 2.5 kg, 3 kg and multiples of a kilogram.

2. Member States may, however, in their own territory:

- prohibit individual packages of a nominal weight of 250 g, provided that they permit those of a nominal weight of 300 g,
- permit individual packages of a nominal weight of 150 g for a transitional period of four years from the notification of this Directive.

Article 5

The descriptions set out in the Annex shall apply only to the products referred to therein and must be used in trade to describe those products.

Article 6

1. The only information which is compulsory on the packages, containers or labels of the products referred to in the Annex, and which must be conspicuous, clearly legible and indelible, shall be the following:

- (a) the description applied exclusively to them in accordance with Article 5;
- (b) the term 'decaffeinated' for coffee extracts, provided that the anhydrous caffeine content of the extract in question does not exceed 0.3 % by weight of its coffee-based dry matter content;
- (c) without prejudice to Community provisions on the labelling of foodstuffs, for the products referred to in the Annex, paragraph 1 (c) and paragraph 2 (c), the terms 'roasted with sugars' or 'preserved with sugars', if need be and as appropriate, on the understanding that, if a single type of sugars is used, it is referred to by name;
- (d) — for products in solid or paste form, the nominal weight expressed in kilograms or grams, save where the products referred to in paragraph 1 (a) and (b) of the Annex, weigh less than 5 g and those referred to in paragraph 2 (a) and (b) of the Annex, weigh less than 8 g,
 - for liquid products, the nominal volume expressed in litres, centilitres or millilitres,
 - in the case of products put up in packages consisting of two or more individual packages each containing the same nominal quantity of the same product, the nominal quantity contained in each individual package and the total number of such packages. These indications shall not, however, be compulsory where the total number of individual packages can be clearly seen and easily counted from the outside and where at least one indication of the nominal quantity contained in each individual package can be clearly seen from the outside,

- in the case of products put up in packages consisting of two or more individual packages which are not regarded as units of sale, the total nominal quantity and the total number of individual packages ;
- (e) the name or trade name and the address or registered office of the manufacturer or packer, or of a vendor established in the Community.

2. Pending entry into force of the Community provisions for the measurement and indication of the nominal weight or the nominal volume, the relevant national provisions shall apply.

Until the expiry of the transitional period during which the use of the imperial units of measurement listed in Chapter D of the Annex to Directive 71/354/EEC⁽¹⁾, as last amended by Directive 76/770/EEC⁽²⁾, is authorized in the Community, the indication of the nominal weight or nominal volume of the contents expressed in units of measurement of the international system shall, if Ireland or the United Kingdom so desire for products marketed in their national territories, be accompanied by an indication of the nominal weight or nominal volume of the contents expressed in the equivalent imperial units of measurement calculated on the basis of the following conversion table :

- 1 g = 0.0353 ounce (avoirdupois),
- 1 ml = 0.0352 fluid ounce,
- 1 kg = 2.205 pounds,
- 1 l = 1.760 pints or 0.220 gallon.

3. By way of derogation from paragraph 1, the Member States may :

- (a) permit use of the term 'concentrated' only in the description of the products referred to in paragraph 1 (c) of the Annex which meet the following additional requirements: the coffee-based dry matter content is more than 25 % but not more than 55 % by weight and, in relation to the finished product, the coffee-based dry matter content multiplied by the quantity of raw coffee used to obtain 0.960 kg of coffee-based dry matter is not less than 1 ;
- (b) require, for the products referred to in paragraph 1 (b) and (c) of the Annex, an indication of :
 - either the minimum coffee-based dry matter content expressed as a percentage of the finished product,
 - or the weight of raw coffee used to obtain 1 kg of the finished product in paste form or 1 l of the finished product in liquid form ;

- (c) require that, in the case of the particulars provided for under paragraph 1 (c), the word 'sugars' be replaced by a list of the names of the various types of sugars used ;
- (d) retain national provisions which require the indication of :
 - the list of ingredients,
 - the manufacturing or packaging establishment, as regards national production,
 - the country of origin, although this information need not be required for products manufactured within the Community.

4. Without prejudice to Directive 76/211/EEC⁽³⁾, if the products referred to in the Annex are packed in containers the contents of which weigh 5 kg or more and are not offered for retail sale, the particulars referred to in paragraph 1 (c) and (d) need appear only on the accompanying documents.

5. Without prejudice to Directive 76/211/EEC Member States shall refrain from laying down rules other than those in paragraph 1 regarding the way in which the information referred to in that paragraph is to be given.

However, Member States may forbid trade in their territory in the products listed in the Annex if the particulars provided for in paragraph 1 (a), (b) and (c) are not shown in the national or official language or languages on the container or label or, in the case referred to in paragraph 4, on the accompanying documents.

Article 7

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

2. Paragraph 1 shall not apply 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, indications of source, applications of origin and the repression of unfair competition.

⁽¹⁾ OJ No L 243, 29. 10. 1971, p. 29.

⁽²⁾ OJ No L 262, 27. 9. 1976, p. 204.

⁽³⁾ OJ No L 46, 21. 2. 1976, p. 1.

Article 8

The sampling procedures and methods of analysis necessary to verify the composition and manufacturing specifications of products falling within the scope of this Directive shall be determined in accordance with the procedure laid down in Article 9.

Article 9

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 Decision 69/414/EEC, 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 Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on that draft within a time limit set by the Chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 41 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 10

Article 9 shall apply for 18 months from the date on which the matter is first referred to the Committee pursuant to Article 9 (1).

Article 11

This Directive shall not apply to products intended for export outside the Community.

Article 12

1. Member States shall, within a period of one year following notification of this Directive, amend their laws in accordance with this Directive and shall immediately inform the Commission thereof.

The laws thus amended shall be applied in such a way as to :

- permit trade in those products which comply with this Directive, two years after notification,
- prohibit trade in those products which do not comply with this Directive, three years after notification ; this period shall be extended, for Ireland and the United Kingdom, as regards Article 4, until the expiry of the transitional period during which the use of the imperial units of measurement listed in Chapter D of the Annex to Directive 71/354/EEC, is authorized in the Community.

2. Paragraph 1 shall not prevent Member States from prohibiting the manufacture of products which do not comply with this Directive, two years after notification.

Article 13

This Directive is addressed to the Member States.

Done at Luxembourg, 27 June 1977.

For the Council

The President

J. SILKIN

ANNEX

DESCRIPTIONS AND DEFINITIONS OF THE PRODUCTS

1. Coffee extracts to which this Directive applies :

(a) *'soluble coffee', 'instant coffee', 'dried coffee extract' or 'dried extract of coffee':*

means coffee extract in powder, granular, flake, cube or other solid form, of which the coffee-based dry matter content is not less than 96 % by weight and which is obtained by using for its manufacture a quantity of raw coffee of at least 2.3 kg per 1 kg of finished product.

This product may not contain any substances other than those derived from its extraction.

(b) *'coffee extract paste'*

means coffee extract, in paste form, of which the coffee-based dry matter content is not more than 85 % and not less than 70 % by weight and which is obtained by using for its manufacture a quantity of raw coffee of at least 2.3 kg per 0.960 kg of coffee-based dry matter in the finished product.

This product may not contain any substances other than those derived from its extraction.

(c) *'liquid coffee extract'*

means coffee extract in liquid form, of which the coffee-based dry matter content is not more than 55 % and not less than 15 % by weight and which is obtained by using for its manufacture a quantity of raw coffee of at least 2.3 kg per 0.960 kg of coffee-based dry matter in the finished product.

This product may not contain any substances other than those derived from its extraction. However, it may contain edible sugars, whether or not roasted, in a proportion not exceeding 12 % by weight.

2. Chicory extracts to which this Directive applies :

(a) *'dried chicory extract' or 'soluble chicory' or 'instant chicory':*

means chicory extract in powder, granular, flake, cube or other solid form, the chicory-based dry matter content of which is not less than 96 % by weight.

This product may not contain any substances other than those derived from its extraction. Substances which are not derived from chicory may not exceed 1 %.

(b) *'chicory extract paste'*

means chicory extract in paste form, of which the chicory-based dry matter content is not more than 85 % and not less than 70 % by weight.

This product may not contain any substances other than those derived from its extraction. Substances which are not derived from chicory may not exceed 1 %.

(c) *'liquid chicory extract'*

means chicory extract in liquid form, of which the chicory-based dry matter content is less than 50 % and not less than 16 % by weight.

This product may not contain any substances other than those derived from its extraction. It may, however, contain sugars in a proportion not exceeding 25 % by weight.
