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**COUNCIL DIRECTIVE**

**of 24 July 1973**

**on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption**

(73/241/EEC)

(OJ L 228, 16.8.1973, p. 23)

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► <b><u>M1</u></b>	Council Directive 74/411/EEC of 1 August 1974	L 221	17	12.8.1974
► <b><u>M2</u></b>	Council Directive 74/644/EEC of 19 December 1974	L 349	63	28.12.1974
► <b><u>M3</u></b>	Council Directive 75/155/EEC of 4 March 1975	L 64	21	11.3.1975

**COUNCIL DIRECTIVE****of 24 July 1973****on the approximation of the laws of the Member States relating to  
cocoa and chocolate products intended for human consumption**

(73/241/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 227 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas national laws reserve certain names for various products derived from cocoa and define their composition and manufacturing specifications, and whereas they prescribe the use of these names in the marketing of these products;

Whereas packaging is also subject to mandatory provisions in certain Member States;

Whereas the existing differences between national laws hinder the free movement of different kinds of cocoa and chocolate products and may impose conditions of unfair competition on undertakings, thereby directly affecting the establishment or functioning of the common market;

Whereas, therefore, it is necessary to approximate the provisions relating to these products and to lay down definitions and common rules in respect of the composition, manufacturing specifications, packaging and labelling of these products in order to ensure their free movement;

Whereas, however, it is not possible in this Directive to harmonize all those provisions applying to foodstuffs which may impede trade in cocoa and chocolate products, although obstacles that persist because of this are bound to decrease as national provisions relating to foodstuffs are increasingly harmonized;

Whereas in order to protect consumers in certain Member States, the description 'halb bitter' is applied to chocolate characterized by a high minimum content of certain ingredients; whereas this description is not suitable for use in the Community as a whole; whereas therefore it seems that provision should be made that this description be reserved for a period of three years for chocolate having a particularly high minimum content of dry cocoa solids;

Whereas the use of vegetable fats other than cocoa-butter in chocolate products is permitted in certain Member States, and extensive use is made of this facility; whereas, however, a decision relating to the possibilities and forms of any extension of the use of these fats in the Community as a whole cannot be taken at the present time, as the economic and technical data currently available are not sufficient to enable a final position to be adopted; whereas the situation will consequently have to be re-examined in the light of future developments;

Whereas, although it is already possible to lay down a scale of weights for chocolate products put up for sale in the form of tablets or bars, it is not yet possible to do so for cocoa powder products, as the choice of the various levels for the scale in this case requires closer study which it has not been possible to complete and whereas the choice of these levels will consequently have to be made at a later date;

## ▼B

Whereas the names laid down in this Directive for the various cocoa and chocolate products differ in certain cases from those used in one or more of the Member States; whereas it is therefore desirable to enable consumers to become used to these new names by allowing both the new names and those at present in force to be applied during a specified period;

Whereas establishing the methods of analysis needed to verify that certain products satisfy purity criteria and determining the methods of sampling and analysis needed for checking the composition and manufacturing specifications of cocoa and chocolate products are implementing measures of a technical nature and whereas, in order to simplify and speed up procedure, the task of adopting them should be entrusted to the Commission;

Whereas it is desirable that for all cases where the Council empowers the Commission to implement rules relating to foodstuffs, provision should be made for a procedure establishing close cooperation between the Member States and the Commission within the Standing Committee for Foodstuffs set up by the Council Decision of 13 November 1969<sup>(1)</sup>;

Whereas it is possible for undertakings to adjust their production methods and to dispose of stocks within a maximum period of two years after new rules and definitions have been adopted by the Member States; whereas, however, application of the scale of weights laid down for certain kinds of packaging will make it necessary to adapt industrial equipment in the Member States and that therefore the period for implementing this rule should be extended to three years;

Whereas special measures need to be adopted in order to take account of the special situation of the new Member States;

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

For the purposes of this Directive cocoa and chocolate products shall mean the products intended for human consumption defined in Annex I.

*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 Annex I thereto.

*Article 3*

1. The names listed in Annex I (1) shall be applied only to the products defined in that paragraph and must be used in trade to designate them.

Nevertheless,

- the names ‘pralina’ or ‘cioccolato’ may be used in Italy and the name ‘a chocolate’ may be used in Ireland and the United Kingdom to describe chocolate, plain chocolate, gianduja nut chocolate, milk chocolate, milk chocolate with high milk content, gianduja nut milk chocolate or white chocolate in single-mouthful sizes;
- the same name ‘milk chocolate’ may be required in Ireland and the United Kingdom to describe the products defined in Annex I paragraph (1) under headings 1.21 and 1.22, on condition that the term is accompanied in both cases by an indication of the amount of milk solids obtained by evaporation, laid down for each of the two products, in the form ‘milk solids: ... % minimum’;

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- the name ‘filled chocolate’ may be replaced in English by one of the following: ‘chocolate with ... filling’, ‘chocolate with ... centre’.

<sup>(1)</sup> OJ No L 291, 19. 11. 1969, p. 9.

**▼B**

2. The provisions of the foregoing paragraph 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 Annex I.

*Article 4*

Cocoa beans which are not sound, wholesome and in good market condition, shells, germs or any other residual products from the solvent-extraction of cocoa-butter may not be used in the manufacture of the products defined in Annex I.

*Article 5*

1. The Council, acting unanimously on a proposal from the Commission, shall determine:

- (a) The list of solvents which may be used for extracting cocoa-butter;
- (b) Purity criteria for cocoa-butter, for the solvents used in its extraction and, where necessary, for the other products used as additives or for treatment listed in Annex I.

2. Until the entry into force of the implementing measures referred to in paragraph 1 (a), Member States shall permit no solvent to be used in the extraction of cocoa-butter other than petroleum spirit 60/75 known as Essence B, or its pure principal fraction. During this period Member States may, however, continue to implement national provisions authorizing other solvents in respect of products marketed in their territory.

3. Where the use in the products referred to in Article 1 of one of the substances referred to in paragraphs 1 and 2, or the level of one or more of the ingredients determined by virtue of paragraph 1 (b) contained in such a substance, might endanger human health, a Member State may, for a maximum period of one year, suspend authorization to use that substance or may reduce the maximum authorized level of one or more of the ingredients in question. It shall immediately inform the Commission thereof and the Commission shall consult the Member States.

The Council acting unanimously on a proposal from the Commission shall decide without delay whether measures need to be adopted and, if so, shall adopt by Directive the necessary amendments. The Council acting by a qualified majority on a proposal from the Commission may also, if necessary, extend for a maximum of one year the period set in the foregoing paragraph.

*Article 6***▼M3**

1. Chocolate, plain chocolate, gianduja nut chocolate, milk chocolate, milk chocolate with high milk content, gianduja nut milk chocolate, white chocolate and filled chocolate, in the form of bars or tablets each weighing not less than 85 g and not more than 500 g, shall be marketed in the following individual weights only: 85 g, 100 g, 125 g, 150 g, 200 g, 250 g, 300 g, 400 g and 500 g.

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2. Within a maximum period of two years from the notification of this Directive the Council, acting on a proposal from the Commission, shall lay down the sole individual weights for marketing the products referred to in Annex I, headings 1.8 to 1.13.

*Article 7*

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

- (a) The name which is reserved for them; in the case of the products defined in Annex I, paragraph 1, heading 1.27, this name shall be

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accompanied by an indication to the consumer of the filling product used, without prejudice to the provisions which may apply to the latter;

- (b) For products specified in Annex I (1) under headings 1.10, 1.11, 1.12, 1.13, 1.16, 1.17, 1.21 and 1.22, an indication of the total dry cocoa content by the declaration 'cocoa solids ... % minimum';
- (c) For filled chocolate and chocolates obtained from chocolate products other than chocolate and couverture chocolate, an additional indication of the type or types of chocolate used. However, in the case of chocolates, for a period of five years from the notification of this Directive, in as much as this is not compulsory under national provisions, the additional indication in question shall be compulsory only in cases where these products are obtained from plain chocolate, milk chocolate with high milk content or white chocolate;
- (d) Where appropriate, the declarations required by Annex I (4) to (7);

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- (e) The net weight, unless the products weigh less than 50 g; however, in the case of products weighing less than 50 g per unit and presented in packages containing two or more such products whose total net weight on the outer wrapper or the individual net weight on each unit wrapper in so far as this is clearly legible from the outside; in the case of hollow moulded products this information may be replaced by the minimum net weight;

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- (f) The name or trade name and the address or registered office of the manufacturer or packer, or of a seller established within the Community.

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

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

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2. (a) Where the products defined in Annex I are put up in packages or containers holding a net weight of not less than 10 kilogrammes and are not retailed, the information referred to in paragraph 1 (b), (c), (d) and (e), together with the information referred to in paragraph 1 (f) for products defined in Annex I, headings 1.1 to 1.7, may appear only in the accompanying documents.

**▼B**

3. Member States shall refrain from stating, apart from what is laid down in paragraph 1, how the information referred to in that paragraph is to be given.

However, Member States may forbid trade on their territory:

- in the products defined in Annex I, if the markings laid down in paragraphs 1 (a), (c) and (d) are not shown on one side of the wrapping or container in the national language or languages;
- in the product defined in Annex I (1) under heading 1.22 if the description 'milk chocolate' appears on the wrapping.

#### *Article 8*

The main name 'chocolate' and 'milk chocolate' may be supplemented by declarations or adjectives relating to quality only if:

- (a) The chocolate has a total dry cocoa solids content of at least 43 %, including at least 26 % cocoa butter;

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- (b) The milk chocolate contains not more than 50 % sucrose and at least 30 % total dry cocoa solids, and 18 % milk solids obtained by evaporation, including at least 4·5 % butter fat.

*Article 9*

1. Notwithstanding Article 7 (1) (a), Member States may, for a period of four years after the notification of this Directive, allow the reserved name to be shown on packages, containers or labels, together with the name previously used in accordance with the usages or regulations of the country concerned at the time of the notification of this Directive.
2. Notwithstanding Article 8, Member States shall, for a period of three years from the notification of this Directive, confine use of the description 'halbbitter' to chocolate having a minimum total dry cocoa solids content of 50 %, including at least 18 % of cocoa butter.

*Article 10*

1. Member States shall adopt all the measures necessary 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 in Annex I thereof, cannot 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, indications of source, applications of origin and repression of unfair competition.

*Article 11*

The following shall be determined in accordance with the procedure laid down in Article 12:

- (a) The sampling procedures and methods of analysis needed to verify that the purity criteria referred to in Article 5 (1) (b) are satisfied;
- (b) The sampling procedures and methods of analysis needed to verify that the rules relating to the composition and manufacturing specifications of these products laid down in Annex I are fulfilled.

*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 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

▼**B**

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 eighteen months from the date on which the matter was first referred to the Committee under Article 12 (1).

*Article 14*

1. This Directive shall also apply to products imported from third countries and intended for consumption within the Community.

2. This Directive shall not affect the provisions of national laws:

- (a) At present authorizing or prohibiting the addition of vegetable fats other than cocoa-butter to the chocolate products defined in Annex I. At the end of a period of three years from the notification of this Directive the Council shall decide, on a proposal from the Commission, on the possibilities and the forms of extending the use of these fats to the whole of the Community;
- (b) Authorizing or prohibiting the retail sale of the various chocolate products without wrapping;
- (c) ►**M3** Prohibiting the marketing of products presented in the form of bars or tablets weighing more than 75 g and not more than 85 g. ◀ The Council shall decide later on a proposal from the Commission the measures to be applied for this purpose three years after the notification of this Directive;
- (d) Laying down less stringent regulations on labelling in the retail sale of fancy products such as figurines, cigarettes, eggs and loose chocolates; in such cases the provisions may only require the placing of a notice near the displayed product;
- (e) Applicable to dietary products, until Community provisions concerning these are put into effect;
- (f) Authorizing the offering for sale of chocolate products other than those defined in Annex I under the names 'cream chocolate' or 'skimmed-milk chocolate'.

3. This Directive shall not apply to products listed in Annex I (1) intended for export from the Community.

*Article 15*

►**M1** By ►**M2** 1 July 1975 ◀ Member States shall, if necessary, amend their laws in accordance with the provisions of this Directive and shall forthwith inform the Commission thereof. ◀ ►**M3** The laws thus amended shall be applied in such a way as to:

- permit trade in products complying with the provisions laid down in this Directive, as from 1 January 1976,
- prohibit trade in products not complying with the provisions laid down in this Directive, as from 1 January 1977. ◀

*Article 16*

This Directive shall apply in the French overseas departments.

*Article 17*

This Directive is addressed to the Member States.

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## ANNEX I

1. For the purposes of this Directive, the following definitions shall apply:
  - 1.1 *Cocoa beans*

the seeds of the cacao-tree (*Theobroma cacao* L.) fermented and dried;
  - 1.2 *Cocoa nib*

cocoa beans, roasted or unroasted, when cleaned, shelled and having undergone germ separation, containing, without prejudice to the provisions of paragraph 2, a maximum residue of 5 % shell or germ and a maximum content of 10 % ash — these percentages to be based on the weight of dry defatted matter;
  - 1.3 *Cocoa dust, cocoa fines*

pieces of cocoa bean in the form of tiny particles, collected separately during winnowing, with a minimum fat content of 20 % based on the weight of the dry matter;
  - 1.4 *Cocoa mass*

cocoa nib reduced to a paste by a mechanical process without losing any of its natural fat content;
  - 1.5 *Cocoa press cake*

cocoa nib or cocoa mass converted into a cake by a mechanical process, containing, without prejudice to the definition of fat-reduced cocoa press cake, at least 20 % of cocoa butter — this percentage to be based on the weight of the dry matter — and a maximum of 9 % of water;
  - 1.6 *Fat-reduced cocoa press cake*

cocoa press cake containing a minimum of 8 % of cocoa butter, based on the weight of the dry matter;
  - 1.7 *Expeller cocoa press cake*

cocoa beans, cocoa dust, with or without cocoa nib or cocoa press cake, converted into cake by the expeller process;
  - 1.8 *Cocoa, cocoa powder*

cocoa press cake obtained by hydraulic pressure, converted into powder by a mechanical process and containing, without prejudice to the definition of fat-reduced cocoa powder, at least 20 % of cocoa butter — this percentage to be based on the weight of the dry matter — and a maximum of 9 % of water;
  - 1.9 *Fat-reduced cocoa, fat-reduced cocoa powder*

cocoa powder containing a minimum of 8 % of cocoa butter based on the weight of the dry matter;
  - 1.10 *Sweetened cocoa, sweetened cocoa powder*

the product obtained by mixing cocoa powder and sucrose so that 100 g of the mixture contains at least 32 g of cocoa powder;
  - 1.11 *Drinking chocolate*

the product obtained by mixing cocoa powder and sucrose so that 100 g of the mixture contains at least 25 g of cocoa powder;
  - 1.12 *Sweetened fat-reduced cocoa, sweetened fat-reduced cocoa powder*

the product obtained by mixing fat-reduced cocoa powder and sucrose so that 100 g of the mixture contains at least 32 g of fat-reduced cocoa powder;



## ▼B

1.13 *Fat-reduced drinking chocolate*

the product obtained by mixing fat-reduced cocoa powder and sucrose so that 100 g of the mixture contains at least 25 g of fat-reduced cocoa powder;

1.14 *Cocoa butter*

the fat obtained from cocoa beans or parts of cocoa beans which complies with the following provisions: cocoa butter shall be presented in one of the following forms and under one of the following names:

— *press cocoa butter or cocoa butter*

cocoa butter obtained by pressure from one or more of the following raw materials:

cocoa nib, cocoa mass, cocoa press cake, fat-reduced cocoa press cake.

It shall have the following characteristics:

— level of unsaponifiable matter determined using petroleum ether not more than 0.35 %

— ►M3 free fatty acid content ◀ not more than 1.75 % (expressed as oleic acid)

— *expeller cocoa butter*

cocoa butter obtained by torsion (the expeller process) from cocoa beans or from cocoa beans combined with cocoa nib, cocoa mass, cocoa press cake, or fat-reduced cocoa press cake.

It shall have the following characteristics:

— level of unsaponifiable matter determined using petroleum ether not more than 0.50 %

— ►M3 free fatty acid content ◀ not more than 1.75 % (expressed as oleic acid)

— *refined cocoa butter*

cocoa butter obtained by pressure, by torsion (the expeller process), by extraction using a solvent or by a combination of these processes, from one or more of the following raw materials:

cocoa beans, cocoa nib, cocoa dust, cocoa mass, cocoa press cake, fat-reduced cocoa press cake, expeller press cake, and refined in accordance with the provisions of paragraph 3 (b); where cocoa fat, prepared either by the producer of 'refined cocoa butter' himself or by another producer, is employed as a secondary raw material, it must have been obtained from the raw materials listed above.

It shall have the following characteristics:

— level of unsaponifiable matter determined using petroleum ether not more than 0.50 %

— ►M3 free fatty acid content ◀ not more than 1.75 % (expressed as oleic acid)

— level of fat obtained from shells and germs not exceeding in proportion to cocoa butter the level existing naturally in cocoa beans.

1.15 *Cocoa fat*

fat obtained from cocoa beans or from parts of cocoa beans not having the characteristics laid down for the various categories of cocoa butter;

**▼B**1.16 *Chocolate*

the product obtained from cocoa nib, cocoa mass, cocoa powder or fat-reduced cocoa powder and sucrose with or without added cocoa butter, having, without prejudice to the definition of chocolate vermicelli, gianduja nut chocolate and couverture chocolate, a minimum total dry cocoa solids content of 35 % — at least 14 % of dry non-fat cocoa solids and 18 % of cocoa butter — these percentages to be calculated after the weight of the additions provided for in paragraphs 5 to 8 has been deducted;

1.17 *Plain chocolate*

the product obtained from cocoa nib, cocoa mass, cocoa powder or fat-reduced cocoa powder and sucrose with or without added cocoa butter, having a minimum total dry cocoa solids content of 30 % — at least 12 % of dry non-fat cocoa solids and 18 % of cocoa butter — these percentages to be calculated after the weight of the additions referred to in paragraphs 5 to 8 has been deducted;

1.18 *Vermicelli chocolate, chocolate flakes*

chocolate in the form of granules or flakes having a minimum total dry cocoa solids content of 32 % including 12 % of cocoa butter;

1.19 *Gianduja (or one of the derivatives of the word 'gianduja') nut chocolate*

the product obtained firstly from chocolate having a minimum total dry cocoa solids content of 32 % including a minimum dry non-fat cocoa solids content of 8 %, and secondly from finely ground hazelnuts in such quantities that 100 g of the product contain not less than 20 g and not more than 40 g of nuts. Almonds, hazelnuts and other nut varieties may also be added, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 % of the total weight of the product;

1.20 *Couverture chocolate*

chocolate containing a minimum of 31 % of cocoa butter and 2.5 % of dry non-fat cocoa solids; if couverture chocolate is described as 'dark couverture chocolate' it shall contain a minimum of 31 % of cocoa butter and 16 % of dry non-fat cocoa solids;

**▼M3**1.21 *Milk chocolate*

the product obtained from cocoa nib, cocoa mass, cocoa powder or fat-reduced cocoa powder and sucrose, with or without added cocoa butter, and also from milk or from solids obtained by partially or totally dehydrating whole milk or from partially or wholly skimmed milk, and where appropriate, from cream, partially or totally dehydrated cream, butter or butter fat; it shall have the following characteristics, subject to the definitions of milk chocolate vermicelli, gianduja nut milk chocolate and couverture milk chocolate:

— total dry cocoa solids	not less than 25 %
— dry non-fat cocoa solids	not less than 2.5 %
— total dry milk solids derived from the ingredients listed above	not less than 14 %
— butter fat	not less than 3.5 %
— total fat	not less than 25 %
— sucrose	not more than 55 %;

these percentages being calculated after the weight of the additions provided for in paragraphs 5 to 8 has been deducted;

1.22 *Milk chocolate with high milk content*

the produce obtained from cocoa nib, cocoa mass, cocoa powder or fat-reduced cocoa powder and sucrose, with or without added cocoa butter,

**▼M3**

and also from milk or from solids obtained by partially or totally dehydrating whole milk or from partially or wholly skimmed milk, and, possibly, from cream, partially or totally dehydrated cream, butter or butter fat;

it shall have the following characteristics:

— total dry cocoa solids	not less than 20 %
— dry non-fat cocoa solids	not less than 2·5 %
— total dry milk solids derived from the ingredients listed above	not less than 20 %
— butter fat	not less than 5 %
— total fat	not less than 25 %
— sucrose	not more than 55 %;

these percentages being calculated after the weight of the additions provided for in paragraphs 5 to 8 has been deducted;

1.23 *Milk chocolate vermicelli, milk chocolate flakes*

milk chocolate in the form of granules or flakes having the following characteristics which differ from those laid down in paragraph 1, heading 1.21:

— total dry cocoa solids	not less than 20 %
— total dry milk solids derived from the ingredients listed in heading 1.21	not less than 12 %
— butter fat	not less than 3 %
— total fat	not less than 12 %
— sucrose	not more than 66 %;

1.24 *Gianduja (or one of the derivatives of the word 'gianduja') nut milk chocolate*

the product obtained, firstly, from milk chocolate having a minimum dry milk solids content of 10 % and, secondly, from finely ground hazelnuts such that 100 g of the product contain not more than 40 g and not less than 15 g of hazelnuts. Almonds, hazelnuts and other nut varieties may also be added, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 % of the total weight of the product;

**▼B**1.25 *Couverture milk chocolate*

milk chocolate having a minimum content of 31 % of fat;

**▼M3**1.26 *White chocolate*

the product free of colouring matters, obtained from cocoa butter, sucrose and from milk or solids obtained by partially or totally dehydrating whole milk or partially or wholly skimmed milk, and, possibly, from cream, partially or wholly dehydrated cream, butter or butter fat; it shall have the following characteristics:

— cocoa butter	not less than 20 %
— total dry milk solids derived from the ingredients listed above	not less than 14 %
— butter fat	not less than 3·5 %
— sucrose	not more than 55 %;

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these percentages being calculated after the weight of the additions provided for in paragraphs 5 to 8 has been deducted;

**▼B**1.27 *Filled chocolate*

without prejudice to the provisions applicable to the filling used, the filled product — excepting flour confectionery or biscuit products — the outer part of which consists of chocolate, plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate, milk chocolate with high milk content, gianduja nut milk chocolate, couverture milk chocolate or white chocolate and constitutes at least 25 % of the total weight of the product;

1.28 *A chocolate*

The product in single-mouthful size, consisting either:

- of filled chocolate, or
- of a combination of chocolate, plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate, milk chocolate with high milk content, gianduja nut milkchocolate, couverture milk chocolate or white chocolate in conjunction with other edible substances, in so far as the chocolate parts are clearly visible at least partially, and constitute at least 25 % of the total weight of the product or, of a mixture of chocolate, plain chocolate, couverture chocolate, milk chocolate, milk chocolate with high milk content, or couverture milk chocolate and other edible substances, excepting,
- flour or starches
- without prejudice to Article 14 (2) (a), fats other than cocoa butter and milk fats

provided that the chocolate products constitute at least 25 % of the total weight of the product.

2. Cocoa beans, cocoa nib, cocoa dust, cocoa mass, cocoa press cake, fat-reduced cocoa press cake, expeller cocoa press cake, cocoa powder and fat-reduced cocoa powder may be alkalized only by one or more of the following products: alkaline carbonates, alkaline hydroxides, magnesium carbonate, magnesium oxide, ammonia solutions, provided that the amount of alkalizing agent added, expressed as potassium carbonate, does not exceed 5 % of the weight of the dry defatted matter.

A quantity of citric acid or tartaric acid not exceeding 0.5 % of the total weight of the product may be added to the products thus treated.

If the product has been treated as described above, its ash content shall not exceed 14 % of the dry defatted matter.

3. (a) Cocoa butter may be treated by the following processes only:
- filtration, centrifuging and other physical processes commonly employed for the purpose of demucilagination;
  - treatment by super-heated steam under vacuum and other physical processes commonly employed for the purpose of deodorization.
- (b) For refined cocoa butter the following are also permissible:
- treatment by an alkaline wash or similar substance commonly employed for the purposes of neutralization;
  - treatment with one or more of the following substances:
    - bentonite,
    - active carbons,
    - other similar substances commonly employed as a decolorant.
4. The products listed in paragraph 1 may contain instead of sucrose:
- crystallized glucose (dextrose), fructose, lactose or maltose amounting to a total of 5 % of the total weight of the product, without it being necessary for this to be stated;

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- crystallized glucose (dextrose) in a proportion of more than 5 % but not over 20 % of the total weight of the product. In this case the name of the product shall be accompanied by the declaration 'with crystallized glucose' or 'with dextrose'.
5. (a) Foodstuffs having a flavouring effect, natural flavouring substances and synthetic or artificial flavouring substances the chemical composition of which is identical to that of the principal elements of natural flavouring substances (with the exception of flavouring preparations suggesting the taste of natural chocolate or milk fat), and ethyl vanillin may be added to cocoa mass, to the various kinds of cocoa powder, chocolate and milk chocolate, to white chocolate and to chocolates.
- (b) without prejudice to the provisions of paragraph 7, a declaration of this addition shall accompany the name of:
- cocoa mass, couverture chocolate and couverture milk chocolate;
  - the various kinds of cocoa powder, chocolate and milk chocolate apart from couverture chocolate, and white chocolate, when the taste of the foodstuff having a flavouring effect or of the flavouring substance is the predominant one.

This declaration shall be made:

- where a foodstuff having a flavouring effect is employed, by giving its name,

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- where flavouring substances other than ethyl vanillin are employed, by adding to the name the statement '... taste' or '... flavour' with a statement, in characters of equal size, indicating the nature of the taste or flavour. Any reference to a natural source should be restricted to natural flavouring substances,

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- where ethyl vanillin is employed, by the statement 'with ethyl vanillin' or 'ethyl vanillin flavour'.
6. Technically pure vegetable lecithin with a peroxide level (expressed in milliequivalents per kg) not exceeding 10, may be added to the products listed in paragraph 1 except cocoa nib.

The name of the product shall be accompanied by a declaration of this addition and its percentage, except when lecithin is added to the various kinds of chocolate referred to under headings 1.16 to 1.28.

Products listed in paragraph 1 may not contain more than 0.5 % of their total weight of phosphatides; however, this percentage shall be increased to 1 % for the various kinds of cocoa powder, milk chocolate with high milk content and chocolate flakes, and to 5 % for the various kinds of cocoa powder intended for production of instant preparations, in so far as the provisions relating to them allow and provided that this purpose is indicated on the packings and in commercial documents.

7. (a) Without prejudice to Article 14 (2) (a), edible substances, with the exception of flour and starches and of fats and fat preparations not derived exclusively from milk, may be added to chocolate, plain chocolate, couverture chocolate, milk chocolate, milk chocolate with high milk content, couverture milk chocolate and to white chocolate.

The amount of these substances, in relation to the total weight of the finished product, may not be:

- (i) less than 5 % or more than a total of 40 % if added in clearly visible and separable pieces;
  - (ii) more than a total of 30 % if added in a form which is for practical purposes indiscernible;
  - (iii) without prejudice to (i) above, more than a total of 40 %, if they are added both in clearly-visible and separable pieces and in a form which is for practical purposes indiscernible.
- (b) a declaration relating to the edible substances added shall accompany the name of the chocolate products referred to under (a).

**▼B**

Such a declaration shall however, be prohibited in respect of the following:

**▼M3**

(i) milk and milk products when the finished product is not milk chocolate, milk chocolate with high milk content, couverture milk chocolate or white chocolate;

**▼B**

(ii) coffee and spirits, when the amount of each of these substances is less than 1 % of the total weight of the finished product;

(iii) other edible substances, incorporated in a form which is for practical purposes indiscernible, when the amount of each of these substances is less than 5 % of the total weight of the finished product.

(c) in the case of filled chocolate and chocolates, the added edible matter referred to in paragraph (a) shall not be included in the chocolate product parts, which, pursuant to headings 1.27 and 1.28, must represent at least 25 % of the total weight.

8. Chocolate, plain chocolate, milk chocolate, milk chocolate with high milk content, white chocolate, filled chocolate and chocolates may be partially coated with edible substances representing a maximum of 10 % of their total weight. In this case:

(a) the upper limits of 40 % and 30 % fixed in paragraph 7 (a) and (b) shall include the coating substances,

(b) the lower limit of 25 % fixed for the content of various kinds of chocolate in filled chocolate and in chocolates shall relate to the total weight of the product, coating included.



## ANNEX II

**Special measures affecting the new Member States**

1. Notwithstanding Article 2 of this Directive, Ireland shall be exempt from applying to products marketed in its territory the provisions laid down in Article 6 during the whole period for which the units of weight legally used in that country at the time of its accession to the European Economic Community remain authorized.
2. (a) Notwithstanding Article 2 of this Directive, the new Member States may, until 31 December 1977, apply to the products marketed in their territory national laws, in force at the time of their accession to the European Economic Community, authorizing the use of
  - phosphoric acid as a neutralizing agent in cocoa products alkalized in accordance with the provisions of Annex I (2);
  - flavouring substances other than those referred to in Annex I (5) (a) in the cocoa and chocolate products referred to in that paragraph;
  - polyglycerol polyricinoleate, sorbitan monostearate, sorbitan tristearate, polyoxyethylene (20) sorbitan monostearate and ammonium salts of phosphatidic acids in the cocoa and chocolate products referred to in the first subparagraph of Annex I (6).
- (b) Pursuant to the procedure laid down in Article 100 of the Treaty, the Council acting on a proposal from the Commission may, not later than 1 January 1978, add to Annex I the substances referred to under (a).

A Decision to include these substances in Annex I may be adopted only if scientific research has established that they are not harmful to human health and if their use is necessary on economic grounds.