

Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption

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PARLIAMENT AND OF THE COUNCIL

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relating to cocoa and chocolate products intended for human consumption

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) Certain vertical Directives relating to foodstuffs should be simplified in order to take account only of the essential requirements to be met by the products they cover in order that those products may move freely within the internal market, in accordance with the conclusions of the European Council held in Edinburgh on 11 and 12 December 1992, confirmed by those of the European Council in Brussels on 10 and 11 December 1993.
- (2) Council Directive 73/241/EEC of 24 July 1973 on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption⁽⁴⁾ was warranted by the fact that differences between national laws on several kinds of cocoa and chocolate products could hinder the free movement of this product, and thereby have a direct effect on the establishment and functioning of the common market.
- (3) The aforesaid Directive was consequently designed to lay down definitions and common rules in respect of the composition, manufacturing specifications, packaging and labelling of cocoa and chocolate products so as to ensure their free movement within the Community.
- (4) Those definitions and rules should be amended to take account of technological progress and changes in consumer tastes, and should be brought into line with general Community legislation on foodstuffs, in particular legislation on labelling, sweeteners and other authorised additives, flavourings, extraction solvents and methods of analysis.
- (5) The addition to chocolate products of vegetable fats other than cocoa butter, up to a maximum of 5 %, is permitted in certain Member States.
- (6) The addition of certain vegetable fats other than cocoa butter to chocolate products, up to a maximum of 5 %, should be permitted in all Member States; those vegetable fats

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should be cocoa butter equivalents and therefore be defined according to technical and scientific criteria.

- (7) In order to guarantee the single nature of the internal market, all chocolate products covered by this Directive must be able to move within the Community under the sales names set out in the provisions of Annex I to this Directive.
- (8) In pursuance of the general food-labelling rules set out in Council Directive 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⁽⁵⁾, in particular a listing of ingredients in accordance with Article 6 thereof is compulsory; this Directive makes Directive 79/112/EEC applicable to cocoa and chocolate products in order to provide consumers with correct information.
- (9) In the case of chocolate products to which vegetable fats other than cocoa butter have been added, consumers should be guaranteed correct, neutral and objective information in addition to the list of ingredients.
- (10) On the other hand, Directive 79/112/EEC does not preclude the labelling of chocolate products to indicate that vegetable fats other than cocoa butter have not been added, provided the information is correct, neutral, objective, and does not mislead the consumer.
- (11) Certain sales names which are reserved by this Directive are in fact used in composite sales names which are recognised in certain Member States to describe products which could not be confused with those defined in this Directive; such descriptions should therefore be maintained. However, the use of such names should comply with the provisions of Directive 79/112/EEC and, in particular, with Article 5 thereof.
- (12) The development of the internal market since the adoption of Directive 73/241/EEC enables 'plain chocolate' to be treated on the same basis as 'chocolate'.
- (13) The derogation provided for in Directive 73/241/EEC allowing the United Kingdom and Ireland to authorise the use on their territory of the name 'milk chocolate' to designate 'milk chocolate with high milk content' should be maintained; however, the English name 'milk chocolate with high milk content' should be replaced with the name 'family milk chocolate'.
- (14) Pursuant to the principle of proportionality, this Directive restricts itself to what is necessary in order to achieve the objectives of the Treaty, in accordance with the third paragraph of Article 5 thereof.
- (15) Cocoa, cocoa butter and a series of other vegetable fats used in the manufacture of chocolate are mainly produced in developing countries. It is in the interests of people living in developing countries that agreements of as long a duration as possible should be concluded. The Commission should therefore consider how the Community can support this in the case of cocoa butter and other vegetable fats (for example by promoting 'fair trade').

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- (16) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁶⁾.
- (17) To avoid creating new barriers to free circulation, Member States should refrain from adopting, for the products in question, national provisions not provided for by this Directive,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 231, 9.8.1996, p. 1](#) and [OJ C 118, 17.4.1998, p. 10](#).
- (2) [OJ C 56, 24.2.1997, p. 20](#).
- (3) Opinion of the European Parliament of 23 October 1997 ([OJ C 339, 10.11.1997, p. 128](#)), Council Common Position of 28 October 1999 ([OJ C 10, 13.1.2000, p. 1](#)) and decision of the European Parliament of 15 March 2000 (not yet published in the Official Journal). Decision of the Council of 25 May 2000.
- (4) [OJ L 228, 16.8.1973, p. 23](#). Directive as last amended by Directive 89/344/EEC ([OJ L 142, 25.5.1989, p. 19](#)).
- (5) [OJ L 33, 8.2.1979, p. 1](#). Directive as last amended by European Parliament and Council Directive 97/4/EC ([OJ L 43, 14.2.1997, p. 21](#)).
- (6) [OJ L 184, 17.7.1999, p. 23](#).