

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 29 June 1978

amending for the fifth 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

(78/609/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 item 1.19 of Annex I to 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 ⁽³⁾, as last amended by Directive 76/628/EEC ⁽⁴⁾, defines gianduja nut chocolate;

Whereas the definition of this type of chocolate given in Annex I does not provide for the use of milk in various forms; whereas this could eventually prevent further manufacture of this type of chocolate, which is, moreover, a quality product;

Whereas the product may traditionally contain a certain quantity of milk; whereas therefore a better definition should be laid down and the addition of small quantities of milk in various forms authorized,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Item 1.19 of Annex I to Directive 73/241/EEC shall be replaced by the following:

'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.

The following may also be added:

— milk or dry matter produced by the partial or complete dehydration of whole milk or partially or fully skimmed milk in a proportion such that the finished

⁽¹⁾ OJ No C 108, 8. 5. 1978, p. 16.

⁽²⁾ OJ No C 84, 8. 4. 1978, p. 7.

⁽³⁾ OJ No L 228, 16. 8. 1973, p. 23.

⁽⁴⁾ OJ No L 223, 16. 8. 1976, p. 1.

- product contains no more than a total of 5 % by weight of dry milk solids including not more than 1.25 % of butterfat,
- almonds, hazelnuts and other nut varieties, 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;'

Article 2

Within one year of the date of notification of this Directive, Member States shall amend their laws where necessary in order to comply with the provisions of this Directive and shall forthwith inform the Commission thereof.

The laws thus amended shall be applied so as to:

- permit the marketing of products conforming to this Directive within two years of the date of notification;
- ban the marketing of products not conforming with this Directive within three years of the date of notification.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 29 June 1978.

For the Council

The President

S. AUKEN