DIRECTIVE 98/72/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 October 1998

amending Directive 95/2/EC on food additives other than colours and sweeteners

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a 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 referred to in Article 189b of the Treaty [3],

Having regard to Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption [4], and in particular Article 3(2) thereof,

Whereas there have been technical developments in the field of food additives since the adoption of Directive 95/2/EC [5];

Whereas Directive 95/2/EC should be adapted to take account of these developments;

Whereas the Scientific Committee for Food, set up by Decision 74/234/EEC [6], was consulted before the adoption of provisions liable to have an effect on public health;

Whereas specific provisions on thiabendazole have been laid down in Council Directive 95/38/EC of 17 July 1995 amending Annexes I and II to Directive 90/642/EEC on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels [7]; whereas the entry on thiabendazole should now be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 95/2/EC is hereby amended as follows:

1. Article 1(1) shall be replaced by the following:

   '1. This Directive is a specific Directive forming a part of the comprehensive Directive, within the meaning of Article 3 of Directive 89/107/EEC, and applies to additives other than colours and sweeteners. It does not apply to enzymes other than those mentioned in the Annexes,';

2. Article 2(1) shall be replaced by the following:

   '1. Only substances listed in Annexes I, III, IV and V may be used in foodstuffs for the purposes mentioned in Article 1(3) and Article 1(4),';

3. Article 2(2) shall be replaced by the following:

   '2. Food additives listed in Annex I are permitted in foodstuffs, for the purposes mentioned in Article 1(3) and Article 1(4), with the exception of those foodstuffs listed in Annex II, following the *"quantum satis"* principle,';

4. The fifth indent of Article 2(3)(a) shall be replaced by:

   '— pasteurised and sterilised (including UHT) milk (including plain, skimmed and semi-skimmed) and plain pasteurised cream,';

5. The eleventh indent of Article 2(3)(a) shall be replaced by:

   '— dry pasta, excluding gluten-free and/or pasta intended for hypoproteic diets, in accordance with Directive 89/398/EEC,';

6. The tables of the Annexes shall be amended in accordance with the provisions contained in the Annex to this Directive.

Article 2

1. Member States shall, where necessary, amend their laws, regulations and administrative provisions in order to:

[1] OJ C 76, 11. 3. 1997, p. 34, and OJ C 77, 12. 3. 1998, p. 7.
[2] OJ C 75, 10. 3. 1997, p. 1.
[3] Opinion of the European Parliament of 23 October 1997 (OJ C 339, 10. 11. 1997, p. 1), Council common position of 23 March 1998 (OJ C 161, 27. 5. 1998, p. 29) and Decision of the European Parliament of 15 July 1998 (OJ C 292, 21. 9. 1998). Council Decision of 28 September 1998.
[4] OJ L 40, 11. 2. 1989, p. 27. Directive as last amended by Directive 94/34/EC of the European Parliament and of the Council (OJ L 237, 10. 9. 1994, p. 1).
[5] OJ L 61, 18. 3. 1995, p. 1. Directive as amended by Directive 96/85/EC (OJ L 86, 28. 3. 1997, p. 4).
[6] OJ L 136, 20. 5. 1974, p. 1.
[7] OJ L 197, 22. 8. 1995, p. 14.

— authorise trade in products conforming with this Directive, by 4 May 2000 at the latest,

— prohibit trade in products not conforming with this Directive from 4 November 2000. However, products placed on the market or labelled before that date which do not comply with the Directive may be marketed until stocks are exhausted.

They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 15 October 1998.

For the European Parliament	*For the Council*
The President	*The President*
J. M. GIL-ROBLES	C. EINEM

ANNEX

1. In Annex I, the following additives shall be added:

'E 469	Enzymatically hydrolysed carboxy methyl cellulose
E 920	L-Cysteine (*)
E 1103	Invertase
E 1451	Acetylated oxidised starch

(*) May be used only as a flour treatment agent.'

2. In Annex II:

(a) the list of additives and the maximum level for 'Jam, jellies and marmalades as defined in Directive 79/693/EEC and other similar fruit spreads including low-calorie products' shall be supplemented as follows:

	'E 471 Mono and diglycerides of fatty acids	*quantum satis*'

(b) the table concerning 'Sterilised, pasteurised and UHT cream, low-calorie cream and pasteurised low-fat cream' shall be replaced by the following:

'Plain pasteurised cream	E 401 Sodium alginate E 402 Potassium alginate E 407 Carrageenan E 466 Sodium carboxy methyl cellulose E 471 Mono- and diglycerides of fatty acids	*quantum satis*'

(c) the designation 'Frozen and deep-frozen unprocessed fruit and vegetables' shall be amended as follows:

'Frozen and deep-frozen unprocessed fruit and vegetables; prepacked, refrigerated unprocessed fruit and vegetables ready for consumption and prepacked unprocessed and peeled potatoes.';

(d) the following table shall be inserted after the table concerning 'Non-emulsified oils and fats of animal or vegetable origin':

'Non-emulsified oils and fats of animal or vegetable origin (except virgin oils and olive oils) specifically intended for cooking and/or frying purposes or for the preparation of gravy	E 270 Lactic acid E 300 Ascorbic acid E 304 Fatty acid esters of ascorbic acid E 306 Tocopherol-rich extract E 307 Alpha-tocopherol E 308 Gamma-tocopherol E 309 Delta-tocopherol	*quantum satis*
	E 322 Lecithins	30 g/l
	E 471 Mono- and diglycerides of fatty acids	10 g/l
	E 472c Citric acid esters of mono- and diglycerides of fatty acids E 330 Citric acid E 331 Sodium citrates E 332 Potassium citrates E 333 Calcium citrates	*quantum satis*'

(e) the list of additives and the maximum level for 'Mozzarella and whey cheese' shall be supplemented as follows:

	'E 260 Acetic acid	*quantum satis*'

(f) the list of additives and the maximum level for 'Canned and bottled fruit and vegetables' shall be supplemented as follows:

	'E 296 Malic acid	*quantum satis*'

(g) the list of additives and the maximum level for 'Gehakt' shall be supplemented as follows:

	'E 300 Ascorbic Acid E 301 Sodium ascorbate E 302 Calcium ascorbate	*quantum satis*'

(h) the following table shall be added at the end of the Annex:

'Pineapple and passion fruit juices and nectars	E 440 Pectins	3 g/l
Sliced and grated ripened cheese	E 170 Calcium carbonates E 504 Magnesium carbonates E 509 Calcium chloride E 575 Glucono-delta-lactone E 460 Celluloses	*quantum satis*
Soured-cream butter	E 500 Sodium carbonates	*quantum satis*'

3. In Annex III, Part A:

(a) the maximum levels for 'Olives and olive-based preparations', 'Emulsified sauces with a fat content of 60 % or more' and 'Emulsified sauces with a fat content less than 60 %' shall be replaced by the following:

'Olives and olive-based preparations	1 000	500		1 000		
Emulsified sauces with a fat content of 60 % or more	1 000	500		1 000		
Emulsified sauces with a fat content less than 60 %	2 000	1 000		2 000'		

(b) at the end of this part, the following table shall be added:

'Foodstuff	Maximum level (mg/kg or mg/l as appropriate)					
	Sa	Ba	PHB	Sa + Ba	Sa + PHB	Sa + Ba + PHB
... Mehu and Makeutettu ... Mehu	500	200				
Analogues of meat, fish, crustaceans and cephalopods and cheese based on protein	2 000					
Dulce de membrillo		1 000				

Foodstuff	Maximum level (mg/kg or mg/l as appropriate)					
	Sa	Ba	PHB	Sa + Ba	Sa + PHB	Sa + Ba + PHB
Marmelada				1 500		
Ostkaka	2 000					
Pasha	1 000					
Semmelknödelteig	2 000					
Cheese and cheese analogues (surface treatment only)	*quantum satis*					
Cooked red beet		2 000				
Collagen-based casings with a water activity greater than 0,6	*quantum satis'*					

4. In Annex III, Part B:

(a) the presentation of the following foodstuffs and maximum levels:

'Crustaceans and cephalopods	
— fresh, frozen and deep-frozen	150 (1)
— crustaceans, *panaeidae solenceridae, aristeidae* family:	
— up to 80 units	150 (1)
— between 80 and 120 units	200 (1)
— over 120 units	300 (1)
— cooked	50 (1)
(1) In edible parts.'	

shall be as follows:

'Crustaceans and cephalopods:	
— fresh, frozen and deep-frozen	150 (*)
— crustaceans, *panaeidae solenceridae, aristeidae* family:	
— up to 80 units	150 (*)
— between 80 and 120 units	200 (*)
— over 120 units	300 (*)
— cooked	50 (*)
(*) In edible parts.'	

(b) the maximum level for the entry 'Sugars as defined in Directive 73/437/EEC except glucose syrup, whether or not dehydrated' shall be replaced by the following:

'Sugars as defined in Directive 73/437/EEC except glucose syrup, whether or not dehydrated	10'

(c) the following foodstuffs and maximum levels:

'Vegetable and cereal-protein-based meat, fish and crustacean analogues	200'