II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 18 November 1988

amending Directive 79/693/EEC on the approximation of the laws of the Member States relating to fruit jams, jellies and marmalades and chestnut purée

(88/593/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

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

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Directive 79/693/EEC (4), as amended by the Act of Accession of Spain and Portugal, lays down a number of technical rules in its Annexes;

Whereas the Directive also requires certain amendments not caused by technical development;

Whereas with regard to the completion of the internal market it is appropriate to subject products with a low dry-matter content to Community arrangements by 1 January 1993;

Whereas it is necessary to acknowledge the right of all consumers to be informed of a significant sulphur dioxide residue in a product to which Directive 79/693/EEC applies;

Whereas Council Directive 85/591/EEC of 20 December 1985 concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption (5), because of its general and horizontal nature, makes it unnecessary to maintain a specific provision on sampling and analysis in Directive 79/693/EEC;

Whereas in the present state of Community food legislation the situation of certain food additives, the authorization of whose use in jams and similar products is provisionally left to Member States, must be reviewed not within the specific framework of Directive 79/693/EEC but in the wider framework of the general legislation on food additives;

Whereas there is no reason why the use of red fruit juices should not be authorized to enhance the colour not only of 'extra' jams but also of jams made from certain red fruits;

Whereas pursuant to Council Directive 86/102/EEC of 24 March 1986 amending for the fourth time Directive 74/329/EEC on the approximation of the laws of the Member States relating to emulsifiers, stabilizers, thickeners and gelling agents for use in foodstuffs (6), amidated pectin has been put on the same footing as pectin; whereas Directive 79/693/EEC should therefore be amended accordingly;

Whereas the wording of certain provisions in Directive 79/693/EEC should also be clarified,

(1) OJ No C 25, 3. 2. 1987, p. 8.
(2) OJ No C 122, 9. 5. 1988, p. 39.
(3) OJ No C 180, 8. 7. 1987, p. 18.
(4) OJ No L 205, 13. 8. 1979, p. 5.
(5) OJ No L 372, 31. 12. 1985, p. 50.
(6) OJ No L 88, 3. 4. 1986, p. 40.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 79/693/EEC is hereby amended as follows:

1. in the English version of the Directive, the expression 'chestnut purée' appearing in:

   — the title,

   — the first, fourth and fifth recitals,

   — Article 1 (6),

   — Annex I (A) (6),

   shall be replaced by 'sweetened chestnut purée'.

2. in the Spanish version, the term 'mermelada' appearing in:

   — the title,

   — the first, fourth and fifth recitals,

   — Article 1 (5),

   — Annex I (A) (5),

   shall be replaced by 'marmalade'.

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

   'Before 1 January 1991 the Council, acting on a proposal from the Commission, shall decide on rules concerning the Community names applicable to such products.'

4. Article 7 (2) (d) shall be replaced by the following:

   '(d) Where the residual sulphur dioxide content is more than 30 mg/kg, the words "sulphur dioxide" shall appear in the list of ingredients, according to the percentage by weight of the residue in the finished product.'

5. Article 7 (3) (b) shall be replaced by the following:

   '(b) the words "total sugar content: ... g per 100 g", the figure shown representing the value determined by refractometer at 20° C for the finished product, subject to a tolerance of ± 3 refractometric degrees.'

6. The following Article 8a shall be inserted:

   'Article 8a

   The amendments necessary to adapt the Annexes to technical progress shall be adopted in accordance with the procedure laid down in Article 13, with the exception of those concerning additives'.

7. Article 11 shall be replaced by the following:

   'Article 11

   The identity and purity criteria for products and substances appearing in Annexes II B and III B shall be determined where necessary in accordance with the procedure laid down in Article 13'.

8. Article 12 shall be deleted.

9. Article 13 shall be replaced by the following:

   'Article 13

   1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Standing Committee for Foodstuffs either on his own initiative or at the request of the 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 deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

   3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

   (b) If 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 relating to the measures to be taken. The Council shall act by a qualified majority.

   If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.'

10. Article 14 shall be deleted.

11. in Article 15, paragraph 2 shall be replaced by the following:

   '2. The derogations in respect of additives provided for in paragraph 1 (a) shall cease to apply once rules on the matter become applicable at Community level'.

   Paragraph 3 shall be deleted.