COUNCIL DIRECTIVE

of 29 June 1978

amending for the first 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

(78/612/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 Annex I to Directive 74/329/EEC (3) lays down a single list of emulsifiers, stabilizers, thickeners and gelling agents for use in foodstuffs which may be authorized in the Member States;

Whereas it appears that the presentation of certain provisions of Annex I to Directive 74/329/EEC may give rise to conflicting interpretations and that these provisions should therefore be worded more clearly;

Whereas having regard to the most recent scientific information on the safety of the mixed acetic and tartaric esters of mono- and diglycerides of fatty acids, their use may be authorized by including them under E 472 (f);

Whereas the reference to polyphosphates (E 450) in the aforementioned Annex I must be worded more precisely to take account of commercial practice;

Whereas the criteria of purity for carrageenan (E 407) are also applicable to furcelleran (E 408); whereas therefore E 408 is not now necessary;

Whereas tamarind seed flour (E 411) and stearoyl-2-lactylic acid (E 480) are no longer commercially available for use in foodstuffs;

Whereas ethylcellulose (E 462) has no technical function as an emulsifier, stabilizer, thickener or gelling agent;

Whereas the addition of sugars as defined in Directive 73/437/EEC (4) is necessary, especially in the case of carrageenan (E 407), pectin (E 440 (a)) and amidated pectin (E 440 (b)), in order to ensure that users are supplied with a product having a constant gelling power;

Whereas it is appropriate to use for these products, as the case may be, the designations 'carrageenan', 'pectin' or 'amidated pectin'; whereas, however, the user of these products should be informed of the presence of the added sugars, though it is impractical to require a statement of the quantity of sugar utilized, which may vary according to the natural gelling properties of the substances concerned,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following shall be added to Article 2 of Directive 74/329/EEC:

'3. However, as regards the substance referred to in Annex I under E 440 (b), the Council, acting in accordance with the procedure provided for in Article 100 of the Treaty, may decide, before 31 December 1982 and after an enquiry by the Commission, to delete it from that Annex or otherwise to change its status.'.

Article 2

Article 6 of Directive 74/329/EEC shall be amended as follows:

1. The third indent of paragraph 1 (a) shall be replaced by the following:

'— they shall not contain more than 50 mg/kg of copper and zinc taken together of which the

(1) OJ No C 266, 7. 11. 1977, p. 45.
(2) OJ No C 59, 8. 3. 1978, p. 41.
(3) OJ No L 189, 12. 7. 1974, p. 1.
(4) OJ No L 356, 27. 12. 1973, p. 71.

zinc content must in no case exceed 25 mg/kg, subject to any exception deriving from the specific criteria of purity referred to in (b);'.

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

'(b) the specific criteria of purity determined in accordance with Article 7 (1).'.

3. The following paragraph shall be added:

'3. Member States shall also provide that the substances listed in Annex I under E 407 and E 440 may, for the purposes of standardization, contain one or more sugars as defined in Directive 73/437/EEC.'.

Article 3

Article 8 of Directive 74/329/EEC shall be amended as follows:

1. Paragraph 1 (b) shall be replaced by the following:

'(b) the number and designation of the substance as given in Annex I, qualified in the case of substances to which sugars have been added for standardization in accordance with Article 6 (3) by adding to the designation the statement "standardized with sugar(s)";'.

2. In paragraph 1, the following subparagraph shall be inserted:

'(d) appropriate words for the substance referred to in Annex I under E 420 (ii), where it contains after hydrosysis a level of total sugars of more than 1 %;'.

3. In paragraph 1, subparagraph (d) shall be replaced by the following:

'(e) in the case of substances listed in Annex I, whether or not standardized with sugars in accordance with Article 6 (3), when mixed with each other, with other additives and where relevant with substances in which such other additives can be dissolved or diluted:

— the number or the designation of the substance as given in Annex I, qualified as necessary in accordance with paragraph 1 (b);

— the designation of each other additive and where relevant the substances in which such additives can be dissolved or diluted;

— the percentage of each component where this requirement is laid down in provisions relating to other categories of additives.'.

4. The following sentence shall be added to the first subparagraph of paragraph 2:

'In the case of substances to which sugars have been added in accordance with Article 6 (3), this percentage incorporates the sugar used for standardization.'.

Article 4

The following shall be added to Article 9:

'(e) products containing pectin and derived from dried apple pomace or dried peel of citrus fruits, or from a mixture of both, by the action of dilute acid followed by partial neutralization with sodium or potassium salts.'.

Article 5

Annex I to Directive 74/329/EEC shall be replaced by the Annex to this Directive.

Article 6

Member States shall, within one year of the notification of this Directive, amend their laws in accordance with the preceding provisions and shall forthwith inform the Commission thereof. The laws thus amended shall be implemented two years after notification of this Directive.

Article 7

This Directive is addressed to the Member States.

Done at Luxembourg, 29 June 1978.

For the Council

The President

S. AUKEN