# COUNCIL DIRECTIVE

**of 30 January 1978**

**amending for the 13th time Directive 64/54/EEC on the approximation of the laws of the Member States concerning the preservatives authorized for use in foodstuffs intended for human consumption**

(78/145/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 Article 3 of Council Directive 64/54/EEC of 5 November 1963 on the approximation of the laws of the Member States concerning the preservatives authorized for use in foodstuffs intended for human consumption (3), as last amended by Directive 76/629/EEC (4), requires that Member States shall authorize the smoking of certain foodstuffs only in smoke produced from wood or woody plants in the natural state and that such smoking should not create any risk to human health ;

Whereas Chapter IX (2) of Annex VII to the Act of Accession permits Denmark, Ireland and the United Kingdom, up to and including 31 December 1977, to maintain in force the provisions of their national laws relating to the use in foodstuffs of liquid smoke solutions ;

Whereas liquid smoke solutions are used primarily for their flavouring properties ; whereas they may have a subsidiary preservative property ;

Whereas investigations are taking place in several Member States on the toxicological acceptability and on the precise technological function of liquid smoke solutions ; whereas the situation must be reviewed in the light of these investigations ;

Whereas it is therefore not yet possible to take final decisions as to whether or not the use of liquid smoke solutions should be authorized within the Community nor as to the manner in which this authorization should be brought about ;

Whereas Council Directive 74/62/EEC of 17 December 1973 amending for the ninth time Directive 64/54/EEC (5), permits Member States to maintain until 31 December 1977 the provisions of their national laws relating to the use of formaldehyde in Grana Padano cheese ;

Whereas on the basis of the most recent scientific and toxicological information it is now possible to maintain such authorization providing the residues of formaldehyde are negligible,

HAS ADOPTED THIS DIRECTIVE :

*Article 1*

1. Article 5 (2) of Directive 64/54/EEC shall be replaced by the following :

'2. By way of derogation from Article 1, Member States may authorize until 31 December 1980 the use of liquid smoke solutions.'

2. The following paragraph shall be added to Article 5 of Directive 64/54/EEC :

'3. (a) By way of derogation from Article 1, Member States may maintain the provisions of their national laws relating to the use of formaldehyde in Grano Padano cheese provided that when the final product is marketed, the level of formaldehyde, free and/or combined, shall not exceed 0·5 milligram per kilogram.

(b) Within three years following notification of this Directive, the Commission shall re-examine the derogations in subparagraph (a) and shall propose any necessary amendments to the Council.'

(1) OJ No C 6, 9. 1. 1978, p. 117.
(2) Opinion delivered on 14 and 15 December 1977 (not yet published in the Official Journal).
(3) OJ No 12, 27. 1. 1964, p. 161/64.
(4) OJ No L 223, 16. 8. 1976, p. 3.
(5) OJ No L 38, 11. 2. 1974, p. 29.