II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 23 November 1976

on the marketing of straight feedingstuffs

(77/101/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 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 livestock production occupies a very important position in the agriculture of the European Economic Community ; whereas satisfactory results depend to a large extent on the use of suitable, good-quality feedingstuffs;

Whereas rules governing feedingstuffs are important to an increase in agricultural productivity, in view of the role played by straight feedingstuffs in this respect;

Whereas it is necessary to lay down rules for the more important straight feedingstuffs; whereas corresponding names must be used for those straight feedingstuffs put on the market and these must correspond to the descriptions under which they are presented;

Whereas, when rules are being laid down for the marketing of straight feedingstuffs, care should be taken to ensure that such feedingstuffs have a favourable effect on livestock production; whereas feedingstuffs must therefore always be wholesome, unadulterated and of merchantable quality; whereas they must neither represent a danger to animal or human health nor be marketed in a manner liable to mislead;

Whereas the provisions of this Directive apply only to straight feedingstuffs which are intended for use as such by livestock producers; whereas the Member States must, however, have the opportunity of extending the principles of this Directive to products and substances used for the manufacture of compound feedingstuffs;

Whereas it is necessary to provide the user with accurate and meaningful information on the composition of the straight feedingstuffs at his disposal ; whereas, therefore, at least the amounts of those constituents having a direct affect on the quality of the feedingstuffs should be declared;

(1) OJ No C 10, 5. 2. 1972, p. 35.
(2) OJ No C 4, 20. 1. 1972, p. 3.

Whereas, having regard to the established practice in certain Member States, provision must be made for the opportunity of requiring a more complete declaration of the composition of straight feedingstuffs; whereas, however, such additional declarations may only be required to the extent provided for in the Annex;

Whereas Member States may provide for the naming, description and labelling of straight feedingstuffs other than those listed in the Annex;

Whereas Member States should, furthermore, have the opportunity of providing for the compulsory packaging of certain straight feedingstuffs listed in the Annex;

Whereas it appears useful to make it possible for Member States to promote the production of high-quality straight feedingstuffs by recommending quality criteria in relation to their composition;

Whereas it seems necessary, in order to ensure free movement within the Community for straight feedingstuffs, to fix certain minimum compositional requirements; whereas Member States must on the other hand remain free to make these minimum requirements compulsory for the marketing of feedingstuffs in their own territories;

Whereas Member States must, however, ensure that straight feedingstuffs satisfying the provisions of this Directive shall not be subject within the Community to any marketing restrictions as regards their naming, description or labelling;

Whereas Member States must make suitable control arrangements to ensure compliance during marketing with the provisions laid down for straight feedingstuffs;

Whereas in order to facilitate the implementation of the measures envisaged and, in particular, to amend and supplement them where necessary, provision should be made for a procedure establishing close cooperation between Member States and the Commission within the Standing Committee for Feedingstuffs set up by Decision 70/372/EEC [1],

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to straight feedingstuffs marketed within the Community.

2. This Directive shall apply without prejudice to the provisions on:

(a) additives used in feedingstuffs;

(b) the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs;

(c) the fixing of maximum permitted levels for pesticide residues on or in products intended for human or animal consumption.

Article 2

For the purposes of this Directive straight feedingstuffs shall mean the various vegetable and animal products in their natural state, fresh or preserved, and their derivatives after industrial processing, as well as the various organic and inorganic substances intended, as such, for oral animal feeding.

Article 3

Member States shall prescribe that straight feedingstuffs may be marketed only if they are wholesome, unadulterated and of merchantable quality. They shall prescribe that straight feedingstuffs must not represent a danger to animal or human health and must not be presented or marketed in a manner liable to mislead.

Article 4

Member States shall prescribe that the general provisions laid down in Part A of the Annex shall apply to the marketing of straight feedingstuffs.

Article 5

1. Member States shall prescribe that the straight feedingstuffs listed in Part B, column 2, of the Annex may be marketed only under the names specified therein and on condition that they correspond to the descriptions given in Part B, column 3, of the Annex.

[1] OJ No L 170, 3. 8. 1970, p. 1.

2. Member States may prescribe names and descriptions for straight feedingstuffs other than those listed in Part B of the Annex.

Article 6

Member States may prescribe that the straight feedingstuffs referred to in Part B, column 7, of the Annex may be marketed only in sealed packages or containers. Member States may prescribe that the packages or containers be sealed in such a way that when a package is opened, the seal is damaged and cannot be re-used.

Article 7

1. Member States shall prescribe that the straight feedingstuffs listed in Part B, column 2, of the Annex may be marketed only if the particulars listed below — for which the producer, packer, importer, seller or distributor, established within the Community, shall be held responsible — are set out in the package or container or on a label attached thereto :

(a) the words 'straight feedingstuff';

(b) name as in Part B, column 2, of the Annex;

(c) where appropriate, the particulars laid down in Part A of the Annex;

(d) the levels of the constituents listed in Part B, column 4, of the Annex;

(e) net weight;

(f) name or trade name and address or registered office of the person responsible for the particulars referred to in this paragraph.

2. Member States shall prescribe that, where straight feedingstuffs are marketed in bulk, the particulars listed in paragraph 1 shall be set out in an accompanying document.

3. Member States may prescribe that the particulars listed in paragraph 1 may appear only in an accompanying document provided that the same sign, permitting the identification of the consignment, appears on the package, container or label and on the accompanying document.

4. By way of derogation from the provisions of paragraph 1, Member States may prescribe full or partial indication of the levels of the constituents listed in Part B, column 5, of the Annex.

5. Member States shall prescribe that only the following additional particulars may be put on the package, container, label or accompanying document of straight feedingstuffs in conjunction with the particulars listed in paragraph 1:

(a) identification mark or trade mark of the person responsible for the particulars referred to in this paragraph;

(b) batch number;

(c) directions for use and the time limit for keeping the product;

(d) country of production or manufacture;

(e) price of the product;

(f) where appropriate, the particulars specified in Article 14 (b);

(g) in full or in part, the levels of the constituents listed in Part B, column 5, of the Annex.

6. Member States may lay down provisions similar to those of paragraphs 1 to 5 for straight feedingstuffs other than those listed in Part B of the Annex.

7. Any other information appearing on packaging, containers, labels and accompanying documents must be given separately from the particulars referred to in paragraphs 1 to 6.

Article 8

Member States may prescribe, for the marketing of straight feedingstuffs on their territories, that the requirements listed in Part B, column 6, of the Annex shall be complied with and may fix corresponding requirements for other straight feedingstuffs.

Article 9

Member States shall ensure that straight feedingstuffs are not subject, for reasons concerning the provisions included in this Directive, to marketing restrictions other than those provided for by this Directive.

Article 10

Amendments to be made to the Annex in the light of advances in scientific and technical knowledge shall

be adopted in accordance with the procedure laid down in Article 13.

Article 11

For the purposes of trade between Member States, the particulars referred to in Article 7 (1) to (6) shall be written in at least one of the national or official languages of the country of destination.

Article 12

Member States shall make all necessary arrangements for official inspection during marketing, at least by sampling, in order to ensure compliance with the requirements of this Directive.

Article 13

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred without delay to the Standing Committee for Feedingstuffs (hereinafter referred to as 'the Committee') by its chairman, either on his own initiative or at the request of a Member State.

2. The votes of the Member States within the Committee shall be weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission representative shall submit a draft of the measures to be adopted. The Committee shall deliver its opinion on such measures within a time limit set by the chairman according to the urgency of the matters under examination. An opinion must receive at least 41 votes in its favour before it may be delivered.

4. The Commission shall adopt the measures and implement them forthwith where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within three months of a proposal being submitted to it, the Commission shall adopt the proposed measures and implement them forthwith, except where the Council has voted by a simple majority against such measures.

Article 14

This Directive shall not affect the right of Member States:

(a) also to apply the principles of this Directive to products and substances intended for animal feeding which are not considered as straight feedingstuffs within the meaning of Article 2;

(b) to recommend quality criteria for certain straight feedingstuffs;

(c) to refrain from applying the provisions of this Directive in respect of straight feedingstuffs marked in such a way as to establish that they are intended for export to non-member countries.

Article 15

The Member States shall bring into force on 1 January 1979 the laws, regulations or administrative provisions necessary to comply with this Directive and shall forthwith inform the Commission thereof.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1976.

For the Council

The President

A.P.L.M.M. van der STEE

ANNEX

PART A

GENERAL PROVISIONS

1. Designation

1.1. If the straight feedingstuff has undergone a process which is not indicated by the name, there must always be added to the name of the product, particulars of the process used, the method by which it had been obtained, and, if applicable, the type of presentation, e.g. 'pressed', 'rolled', 'crushed', 'ground', 'milled', 'pressed cake', 'broken cake', 'cake crumbs', 'cake meal', 'expellers', 'expeller meal' or 'oil meal'.

1.2. In the case of the straight feedingstuffs listed in 2.1.1 to 2.1.3 of Part B, it may be laid down that the name must be supplemented by particulars of the type or types of wheat used: common wheat, durum wheat or common wheat and durum wheat.

1.3. In the case of the straight feedingstuffs listed in 2.9.2 and 3.2.8 of Part B, it may be laid down that the name must be accompanied by particulars of the vegetable or animal species from which the product is derived.

2. Compulsory declarations and requirements

2.1. The levels indicated or to be declared as specified in Part B refer to:

— the weight of the straight feedingstuff as such, for the purpose of columns 4 and 5,

— the weight of dry matter contained in the straight feedingstuff, for the purpose of column 6, with the exception of items 2.6.5, 2.6.6, 2.9.2, 3.2.8 and 3.3.2.

2.2. Where the products referred to in column 2 of Part B of the Annex are used to denature or bind straight feedingstuffs, the following information must be given:

— denaturing agents: nature and quantity of the products used,

— binding agents: nature of the products used.

In the case of binding agents, the quantity of the products used may not exceed 3% of the total weight.

2.3. In so ar as other values have not been laid down regarding certain straight feedingstuffs, the botanical purity of the products and by-products listed in Part B, under 1 and 2, must not be less than 95%.

2.4. Where, on official analysis pursuant to Article 12 of the Directive, the composition of a straight feedingstuff is found to depart from the declared composition in a manner such as to reduce its value, the following minimum tolerances are permitted:

(a) for crude protein, nitrogen, total sugars, reducing sugars and sucrose, lactose and glucose (dextrose):

two units for declared contents of 20% or more,

10% of the declared content for declared contents of less than 20%,

0·5 unit for declared contents of less than 5%;