



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.03.1998

COM(97) 682 final

96/ 0112 (COD)

Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**RELATING TO COCOA AND CHOCOLATE PRODUCTS  
INTENDED FOR HUMAN CONSUMPTION**

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)



## EXPLANATORY MEMORANDUM

In response to the European Parliament's opinion of 23 October 1997<sup>1</sup> on the proposal for a European Parliament and Council Directive relating to cocoa and chocolate products intended for human consumption (COM(95)722 final - 96/0112 (COD))<sup>2</sup> and pursuant to Article 189a(2) of the EC Treaty, the Commission has decided to amend the abovementioned proposal.

### **The Commission has approved the amendments concerning:**

- the reference to the Community rules on additives used in foodstuffs, which clarifies the text proposed by the Commission (amendment 14);
- the clearer definition of "gianduia" and of "gianduia" milk chocolate (amendments 19 and 20).

### **The Commission has approved part of the amendment concerning:**

- indication on the labelling of the use of vegetable fats other than cocoa butter, in addition to the list of ingredients and on the same side of the packaging as the sales name (amendment 36). Precise indication that the product contains vegetable fats is useful for consumers. However, the position on the labelling must be left freely to the discretion of the manufacturer.

### **The Commission has rejected the amendments concerning:**

- taking into account the Community's international obligations, in particular under the International Cocoa Agreement (amendment 1). This is superfluous since the European Community is a party to the Agreement and must therefore comply with the obligations which it imposes;

deletion of the wording concerning adaptation of the Directive on chocolate to technological process and changes in consumer tastes, since it is obvious that food legislation must take account of such changes (amendment 2);

the uncertainties concerning the methods of analysis and monitoring use of vegetable fats in the end-product and the development of reliable methods of analysis before the proposal for a Directive enters into force (amendments 3, 12, 17 and 18). However, the degree of accuracy of the current methods of analysis for vegetable fats is no different than for other ingredients (for example, cocoa butter) in chocolate. Efficient verification methods exist already, notably to implement Directive 89/397/EEC on the official control of foodstuffs. Nevertheless, work is being carried out at the Joint Research Centre in Ispra, under the supervision of the Commission, to define more accurate methods of analysis. These should be available in 1999. The inspection

---

<sup>1</sup> Not yet published.

<sup>2</sup> OJ No C 231, 9.8.1996, p. 1.

authorities in the Member States will, therefore, be able to avail themselves of these instruments, in addition to the means already available to ensure correct application of Directive 89/397/EEC;

- taking into account the interests of and agreements with ACP countries and conclusion by the Community of long-term contracts with these countries. Article 130u of the Treaty calls on the Community to foster sustainable development in the ACP countries. However, this consideration is out of place in a Directive on the composition of products (amendments **4 and 10**);
- the number of Member States which permit or prohibit vegetable fats other than cocoa butter, since this detail is unnecessary and could change in the future (amendment **5**);
- the restriction of vegetable fats other than cocoa butter to tropical fats not obtained using enzymatic production processes. This restriction would radically change manufacturing practices in the countries currently authorising the addition of vegetable fats other than cocoa butter and could infringe the WTO rules on international trade. It is also unjustified from the technical point of view (amendments **7, 37 and 70**);
- deletion of the derogation concerning the designation "milk chocolate" in the United Kingdom and Ireland. "Milk chocolate" is the trade name traditionally used for decades and associated by consumers in these countries with the product known in other European Union countries as "milk chocolate with high milk content" (amendments **9 and 21**);
- the delegation of powers to the Commission to define methods of analysis for precise detection of vegetable fats, since it is not for the Commission to lay down such methods in rules which cannot be developed at the same pace as scientific progress (amendment **15**);
- the implications of the proposal on exports from ACP countries and the call for the Commission to assess the impact thereof. Various factors not directly related to the proposal affect cocoa exports and the revenue which they generate for cocoa-producing countries. The proposal should make no difference to these countries' economic situation (amendments **16 and 64**);
- indication of the quantity of vegetable fats other than cocoa butter in the list of ingredients, since this would not add significantly to the information available to the consumer since the proposal restricts the maximum content of such matter to 5% (amendment **35**);
- the ban on indications or wording on the labelling relating to quality criteria for chocolate products containing vegetable fats other than fats derived exclusively from cocoa. This restriction fails to respect the traditions and consumer preferences in several Member States (amendment **40**);
- the reference to chocolate as a natural product and the use of natural manufacturing processes. Chocolate is produced by many processes. This reference is therefore inappropriate (amendment **51**).

## Amended proposal for a European Parliament and Council Directive relating to cocoa and chocolate products intended for human consumption

In response to the European Parliament's opinion of 23 October 1997<sup>3</sup> on the proposal for a European Parliament and Council Directive relating to cocoa and chocolate products intended for human consumption (COM(95)722 final - 96/0112 (COD))<sup>4</sup> and pursuant to Article 189a(2) of the EC Treaty, the Commission has decided to amend the abovementioned proposal as follows:

### ORIGINAL TEXT

### AMENDED TEXT

#### ARTICLE 2, SECOND PARAGRAPH

Chocolate products which, in pursuance of the first paragraph, contain vegetable fats other than cocoa butter may be marketed in all of the Member States, provided that their labelling, as provided for in Article 3, is supplemented by a clear, neutral and objective statement that those substances are present in the finished product, in addition to the list of ingredients.

Chocolate products which, in pursuance of the first paragraph, contain vegetable fats other than cocoa butter may be marketed in all of the Member States, provided that their labelling, as provided for in Article 3, is supplemented by a conspicuous and clearly legible statement: "contains vegetable fats other than cocoa butter", in addition to the list of ingredients and clearly distinct from it.

#### ARTICLE 3a

The additives used in the products referred to in Part A of the Annex shall comply with Directive 89/107/EEC and with the provisions adopted for implementation thereof.

#### ANNEX, PART A, POINT 2(b), THIRD INDENT

- "*giandua*": the product must contain at least 32% of total dry cocoa solids of which at least 18% is cocoa butter, at least 8% dry non-fat cocoa solids, and not less than 20% finely ground hazelnuts,
- "*giandua*" (or one of the derivatives of that name): the product must contain at least 32% of total dry cocoa solids of which at least 18% is cocoa butter and 8% non-fat cocoa solids on the one hand and finely ground hazelnuts on the other, in such proportions that 100 grammes of the product contains at

---

<sup>3</sup> Not yet published.

<sup>4</sup> OJ No C 231, 9.8.1996, p. 1.

least 20 grammes and no more than 40 grammes of hazelnuts,

**ANNEX, PART A, POINT 3(b), THIRD INDENT**

- "*gianduia*": the product must contain not less than 10% milk or material obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or partly or wholly dehydrated cream, butter or milk fat, and not less than 15% finely ground hazelnuts.
- "*gianduia*" (or one of the derivatives of that name): the product must contain not less than 10% milk or material obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or partly or wholly dehydrated cream, butter or milk fat on the one hand and finely ground hazelnuts on the other, in such proportions that 100 grammes of the product contains at least 15 grammes and no more than 40 grammes of hazelnuts.



ISSN 0254-1475

COM(97) 682 final

# DOCUMENTS

EN

03 10 02 11

---

Catalogue number : CB-CO-97-697-EN-C

ISBN 92-78-28951-5

---

Office for Official Publications of the European Communities

L-2985 Luxembourg

6