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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(73) 456 final

Brussels, 26 March 1973

PROPOSAL FOR A

DIRECTIVE OF THE COUNCIL

concerning the harmonisation of the laws of
the Member States with regard to coffee and
tea extracts and their substitutes, including
chicory and blends based on these extracts

(Submitted to the Council by the Commission)

M O T I V A T I O N .

Coffee and tea extracts, and extracts of their substitutes are relatively new products among foodstuffs. The first experimental processes for their fabrication may go back as far as one century ago, and certain products had been introduced in 1916, but only in 1950 a product called "instant coffee" consisting of 100% coffee appeared on the market.

The newness of these products explains the fact that their ruling, often very concise and incomplete, shows considerable divergences from one country to another, in default of material for comparison. For instance the rules concerning the designation, where they exist, are so different in the Member States that it is necessary to establish Community regulation to ensure the free movement of the products under consideration.

In elaborating this Proposal the most important problem was to know whether it would be useful or even necessary to provide for rules concerning the degree of extraction, representing the quantity of green coffee used for making one kilogram of extract. If this would be the case, provisions should have to be laid down as appropriate to such necessity or utility.

With regard to this problem the Commission came to the following conclusions.

In the first place it has not been established that considerations in the field of health would justify ruling of the degree of extraction, as already the proposal forbids the trade of extracts obtained by the acid hydrolysis process. Not either could such considerations lead to prohibition of extracts obtained from a quantity of coffee inferior to a certain limit.

In the second place it has not been proven that the degree of extraction constitutes a criterion for the quality and composition that would permit to distinguish between various kinds of extracts. The degree of extraction is only one among many, and often more important, factors that determine the characteristics of the product, which are moreover appreciated in a subjective way. Such other factors are for instance the variety and the origin of the green coffee, the composition of the blend, the roasting, the extraction technique used, and the characteristics of the water used in the process. Therefore, different designations according to the quantity of green coffee used, this quantity being on the one hand inferior, on the other hand equal or superior to a certain limit, would be misleading to the consumer.

However, a reference to the degree of extraction could place the manufacturers in a concordant position in the competition, all other factors being equal, and so give to the consumer an element of information suitable to direct his choice, taking into account the price, between various coffee extracts all designated as such. But it is technically impossible to impose the mention of the degree of extraction because this degree may vary to some extent in the production process due for instance to the nature of the coffee used. Taking into consideration, however, the fact that in most cases the quantity of green coffee used to produce one kg of extract is superior to 2.3 kg, it seems reasonable to impose in the labelling mention of : "processed from less than 2.3kg of green coffee per kg extract" for products for which this is the case. This solution excludes the possibility of using misleading designations other than "coffee extract" or the like, and obliges the manufacturer only to mention a characteristic the product really possesses. Therefore this solution appears in the proposal.

Further the proposal provides for rules, in consumers' interest, concerning incorporation of additives, weight and labelling. It has been elaborated during a period of nearly two years, with consultation of different experts and of the consumers' and trade organizations and of the trade unions. In 19

the national Authorities and the private sector of the acceding states have been asked to give their opinions, which have been taken into account to a great extent; for instance, the degree of extraction originally fixed at 2.5 has been reduced so as to suit their wishes.

PROPOSAL

for a Directive of the Council concerning the
harmonization of the laws of the Member States
with regard to coffee and tea extracts and their
substitutes, including chicory and blends based on
these extracts

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;

HAVING REGARD to the Opinion of the Economic and Social Committee;

WHEREAS the legislative, regulator and administrative provisions in force
in certain Member States define extracts of coffee, tea and substitutes
thereof, including blends based on these extracts, and also the composition
of some of such extracts, determine the substances which may be added
during the manufacture thereof and lay down specific rules with regard
to their labelling;

WHEREAS the differences existing between these measures
constitute a barrier to freedom of movement of extracts of coffee, tea
and substitutes thereof, including chicory, and blends based on these
extracts, thus obliging the undertakings engaged in the manufacture
thereof in the Community to differentiate their products according to the
Member State for which such products are destined; and whereas they have,
thereby, a direct bearing on the establishment and functioning of the
common market;

.../...

WHEREAS it is in consequence necessary to determine at Community level the rules which must be observed with regard to the composition of these products and the substances likely to be used in the manufacture thereof, the packaging materials, and the labelling; and whereas it is also necessary to lay down the conditions on which specific designations may be used for certain of these products;

WHEREAS without prejudice to the measures to be adopted by the Council (in such matters) it is necessary to take steps to ensure that the regulations at present in force in the Member States with regard to the materials and objects destined to enter into contact with foodstuffs, and to decaffeinating solvents and the general rules governing the labelling of foodstuffs should not, until the entry into force of these Community measures, constitute barriers to the freedom of movement of the products in question;

WHEREAS the determination of the procedures relating to the taking of samples and to the methods of analysis necessary for checking the composition and other manufacturing characteristics of these products is an implementing measure of a technical nature and the adoption thereof should be assigned to the Commission with the aim of simplifying and accelerating the procedure;

WHEREAS in all cases in which the Council confers on the Commission the power to enforce the rules drawn up in the field of foodstuffs, it is necessary to provide for a procedure for setting up close cooperation between the Member States and the Commission within the Standing Committee on Foodstuffs established by Council Decision 69/414/EEC of 13 November 1969 (1) ;

(1) O.J. No. L 291 of 19.11.1969, page 9

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Directive shall apply to the products defined in Annex 1.

Article 2

The Member States shall take any necessary measures to ensure that the products referred to in Article 1 are not marketed unless they are compatible with this Directive and its Annexes.

Article 3

1. Only raw materials of a sound quality, genuine and marketable may be used for the manufacture of the products referred to in Article 1.
2. Only the solvents listed in Annex 2, Table A, are authorized for use in the removal of caffeine from the products defined in Annex 1, Chapters 1, 2 and 5. Traces of these solvents in such products shall not exceed the limit set in that table.
3. No additives shall be used in the manufacture of the products listed in Annex 1, Chapter 1.

As regard the products listed in Annex 1, Chapters 2 to 5, only the additives listed in Annex 2, Table B, in the conditions governing their use as set out therein, are authorized.

Article 4

Only packaging materials unlikely to alter their organoleptic or chemical characteristics or to render them injurious to health shall be used for the storage of the products listed in Article 1.

.../...

Article 5

1. When stored in packages with a net content more than 20 g, products in solid or in paste form ^{shall} not be offered for retail sale otherwise than in unit weights of 25, 50, 75 or 100 g or other multiples of 50 g.

2. Notwithstanding the provisions of the preceding paragraph, the extracts of substitutes for coffee or tea may be offered for retail sale in instant unit packages, the net content of which is 125 g.

Article 6

The denominations set out in Annex 1 shall apply only to the products defined therein and shall be used to describe these products in the trade.

Article 7

The containers, packages or labels in or under which the products listed in Article 1 are marketed shall bear the following information in a clearly visible, fully legible and indelible form:

- (a) the designation allotted to such products pursuant to Article
- (b) in the case of products listed in Annex 1, Chapter 1, paragraph 2 (a) and obtained from a quantity of unroasted coffee of less than 2,3 Kg per kg of finished product at packing, the legend " manufactured from less than 2,3 kg of unroasted coffee per kg of extract ";

This information shall immediately follow the designation provided for in paragraph (a) and be printed in characters not less than 4 mm high and in the same colour as that of the characters used for this designation;

(c) in the case of products other than in solid or paste form, the dry matter content originating in the coffee or tea extracts shall be expressed as a percentage of the net weight;

(d) in the case of products in solid or paste form and subject to the provisions under (i), the net weight shall be expressed in grammes or kilogrammes and in the case of products in liquid form the net volume shall be expressed in litres or fractions thereof;

(e) if appropriate, in the case of the products listed in Annex 1, Chapters 2 and 5, the natural aromatizing substances used shall be stated;

(f) in the case of the products listed in Annex 1, Chapter 5, the indication concerning the weight of coffee tea or chicory extract, followed by details, in decreasing order of weight, of the other raw materials used, other than water;

(g) in the case of the products listed in Annex 1, Chapter 1, paragraph 2 (b), the words "roasted with sugar";

(h) in the case of the products listed in Annex 1, Chapter 3, paragraph 2 (a) the sugar content by weight;

(i) in the case of products sold in small dose package, on the sale packaging, the total weight, the number of small dose packages contained and the number^{of} cups as obtainable according to the directions;

(j) thename, together with the address or registered office, of the manufacturer, warehousing concern or vendor, the person in question being established in the Community;

(k) in the case of products imported from third countries, in addition to the information provided for in paragraphes (a)-(j), the country of origin.

.../...

Article 8

The use of any titles, marks, images or other signs figurative or otherwise, suggesting a characteristic not possessed by the products in question^{and which might consequently mislead the consumer} is prohibited in the labelling and sales presentation of the products defined in Annex 1, together with the publicising of same in whatever form.

Especially references to the presence of substances of a savoury or aromatic nature are not authorized unless such substances have been used in sufficient quantities for them to affect perceptibly the organoleptic characteristics of the products in question.

Article 9

1. The Member States shall not, for reasons concerning the composition, manufacturing characteristics, storage and labelling, prohibit or impede the marketing of the products referred to in Article 1 if these products comply with the provisions of this Directive and its Annexes.

However, the Member States may require the information referred in Article 7 (a-j) to be expressed in their national languages.

2. The provisions of paragraph 1 shall not constitute an obstacle to the maintenance by the Member States of their national provisions relating to the protection of industrial and commercial property, particulars of the provenance^{and} registered designations of origin.

Article 10

Shall be laid down in accordance with the procedure provided for in Article 11:

.../...

- (a) the procedure relating to the taking of samples and measuring of weight;
- (b) the methods of analysis required for checking the composition and manufacturing characteristics of the products falling within the scope of this Directive.

Article 11

1. Where reference is made to the procedure defined in this Article, the Standing Committee on Foodstuffs

hereinafter called the "Committee", shall be convened by its chairman, either on his own initiative, or on requisition by the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft text of the measures to be taken. The Committee shall deliver its opinion on this draft within a period which the chairman may fix in relation to the urgency of the matter in question. It shall act by a majority of ~~forty-one~~ votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty.

The chairman shall not take part in the vote.

3. (a) the Commission shall draw up the measures envisaged when they comply with the Opinion of the Committee;

(b) where the measures envisaged do not comply with the Opinion of the Committee, or in the absence of such an Opinion, the Commission shall submit to the Council without delay a proposal concerning the measures to be taken. The Council shall act by a qualified majority;

.../...

- (c) if, on the expiry of three months after the date on which the matter was brought before the Council, the latter has not taken any action, the measures proposed shall be adopted by the Commission.

Article 12

The Directive shall not apply to products intended for export to third countries insofar as it is not stated in their labelling of such products that they comply with the rules provided for in this Directive.

Article 13

1. Within a period of one year after the date of notification of this Directive, the Member States shall amend their laws in conformity with the foregoing measures and inform the Commission thereof forthwith.
2. Within a further period of two years the thus modified legislation shall become applicable to products manufactured in or imported into the Community.
3. Upon notification of this Directive, the Member States shall further ensure that the Commission is informed, in time to enable it to make any comments, of any subsequent draft measures of a legislative, regulatory or administrative nature which they contemplate adopting in the field governed by this Directive.

Article 14

This Directive is addressed to the Member States.

Done at Brussels

For the Council

The President

ANNEX I

Chapter I - Coffee extracts

1. "Coffee extract" is the product ^{at various stages of} /in any concentration, obtained exclusively by the aqueous extraction of roasted coffee - to the exclusion of any acid hydrolysis process - and containing only the soluble elements of coffee.

The water used shall be recognized as potable. It may, if appropriate, have been softened.

2. A distinction is made between two types of coffee extracts, namely :

- (a) "Coffee extract", "soluble coffee" or "instant coffee" mean coffee-extracts the dry-matter content of which is equal to or exceeds 96 % by weight.

These products may not comprise any element other than those originating in their extraction.

- (b) "Coffee extract paste" and "liquid coffee extract" mean coffee-extracts the dry-matter content of which does not exceed 96 % by weight and is equal to or exceeds 12 % if these products are sold for consumption, or 7 % if they are sold as a raw material for industry.

These products may contain edible sugars in a proportion less than or equal to 8 % by weight.

3. "Caffeine-free coffee extract" or "caffeine-free soluble coffee" mean: exclusively coffee-^{extracts} the caffeine content by weight of which, calculated according to the dry matter of the extract under consideration, does not exceed 0,3 %.

.../...

Chapter 2 - Tea extracts

1. "Tea extract" is the product at various stages of concentration and/or dryness, originating exclusively in the aqueous extraction of tea, with or without natural aromatic additives such as jasmine flowers, rose petals, mint leaves, bergamot oil, mint, lemon or orange essence.

The water used shall be recognized as potable ; it may, as appropriate be softened.

2. A distinction is made between two categories of tea extract, namely :

- (a) "Soluble tea extracts", "soluble tea" or "instant tea" means tea extract the dry-matter content of which is equal to or exceeds 94 % by weight ;

- (b) "Concentrated tea extract" means tea extract the dry-matter content of which is less than 94 % by weight and equal to or in excess of 50 % by weight.

- or "soluble caffeine-free tea" or "instant caffeine-free tea"
3. "Caffeine-free tea extract" means exclusively tea extract of one or the other category listed in paragraph 2 the content by weight of anhydrous caffeine of which, calculated on the dry matter in the extract in consideration, does not exceed 0,3 %.

Chapter 3 - Chicory extracts

1. "Chicory extract" is the concentrated or dried product derived exclusively from aqueous extraction of the *Chicorium Intybus* L. root, in a non-spent, suitably cleaned, dried and roasted form. The chicory extract may contain a maximum of 3 % by weight of nutrient fats and/or glucose.

The water used shall be recognized as potable ; it may, as appropriate be softened.

.../...

2. A distinction is made between three categories of chicory extract namely :

- (a) "Chicory extracts in soluble powder form" or "soluble chicory" or "instant chicory" mean chicory-extract the dry-matter content of which is equal to or in excess of 96 % by weight.
- (b) "Chicory extracts in paste form" means chicory-extract the dry matter content of which is equal to or in excess of 32 % by weight, and inferior to 96 %
- (c) "Liquid chicory extract" or "liquid chicory" or "chicory concentrate" mean chicory extract the dry-matter content of which is equal to or in excess of 16 % by weight.

The addition of any foreign matter to the chicory is prohibited, with the exception of edible sugars, whether roasted or not.

Chapter 4 - Extracts of coffee and tea substitutes

1. Extracts of coffee or tea substitutes are the product at any level of concentration derived exclusively from the aqueous extraction of coffee and/or tea substitutes, even in the form of mixtures.

The water used shall be recognized as potable; it may, as appropriate, be softened.

2. Where, depending on usage, the terms "coffee" or "tea" are employed in certain Member States to describe substitutes not containing coffee or tea, the designation of these substitutes shall be followed by the words "substitute" or "imitation" written in characters of the same colour and size.

.../...

Chapter 5 - Blends derived from coffee and/or tea extracts

Blends derived from coffee or tea extracts are blends of these extracts to which may be added one and/or other of the products listed under Chapters 3 and 4, with other nutrients such as edible sugars, roasted or not, and roasted malt or natural aromatizing substances.

Extracts of blended tea or coffee, together with the products or substances specified in the foregoing paragraph are also deemed to be such blends.

ANNEX 2

Table A

Solvents for the removal of caffeine

| Designation | Characteristics required | | Maximum authorized content |
|--|--------------------------|--------------------|--|
| | Boiling point | Distilled fraction | |
| Dichloromethane, methylene chloride CH_2Cl_2 | 40,7°C | 39/41°C | (10 ppm calculated in chlorine ions related to the dry matter) |
| 1,2 Dichloroethene cis $\text{C}_2\text{H}_2\text{Cl}_2$ | 60,3°C | | |
| 1,2 Dichloroethene trans $\text{C}_2\text{H}_2\text{Cl}_2$ | 48,4°C | | |
| 1,2 Dichloroethene (ethylene chloride) $\text{C}_2\text{H}_4\text{Cl}_2$ | 84,1°C | 82,5/ 84,5°C | |
| Trichloroethene (Trichloroethylene-trilene) C_2HCl_3 | 86,9°C | 86/88°C | (10 ppm) |
| Ethyl acetate (acetic ester) $\text{C}_4\text{H}_8\text{O}_2$ | 77,1°C | 75,5/ 78,5°C | |

Tab. B

pH correctors and miscellaneous (1)

| EEC No. | Designation | Maximum authorized content (g/kg) |
|---------|---------------------|-----------------------------------|
| | Sodium Carbonate | 10 |
| | Potassium Carbonate | 10 |
| | Sodium Hydroxide | 10 |
| | Potassium Hydroxide | 10 |
| E 260 | Acetic Acid | 10 |
| E 300 | l-Ascorbic Acid | 0,5 |
| E 330 | Citric Acid | 10 |
| E 334 | Tartaric Acid | 10 |
| | Malic Acid | 10 |

Table C

anti-clotting substances (2)

| Designation | Maximum authorized content (g/kg) |
|-------------------------------|-----------------------------------|
| Sodium-silico-aluminates | 2 |
| Calcium-and sodium-aluminates | 2 |
| Aluminium stearate | 2 |
| Magnesium stearate | 2 |
| Colloidal silica | 2 |

(1) Only for products mentioned in Annex I, Chapter 2 and 5.

(2) Only for products mentioned in Annex I, Chapters 3, 4 and 5, destined for sale to the consumer by automatic drink serving machines.