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RECOMMENDATION FOR SECOND READING

on the common position adopted by the Council with a view to adopting a European Parliament and Council directive relating to cocoa and chocolate products intended for human consumption
(9947/1/1999 – C5-0252/1999 – 1996/0112(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: [Paul Lannoye](#)

| <i>Symbols for procedures</i> | <i>Abbreviations for committees</i> |
|---|---|
| <p>* Consultation procedure <i>majority of the votes cast</i></p> <p>**I Cooperation procedure (first reading) <i>majority of the votes cast</i></p> <p>**II Cooperation procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>*** Assent procedure <i>majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty</i></p> <p>***I Codecision procedure (first reading) <i>majority of the votes cast</i></p> <p>***II Codecision procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>***III Codecision procedure (third reading) <i>majority of the votes cast, to approve the joint text</i></p> | <p>I. AFET Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy</p> <p>II. BUDG Committee on Budgets</p> <p>III. CONT Committee on Budgetary Control</p> <p>IV. LIBE Committee on Citizens' Freedoms and Rights, Justice and Home Affairs</p> <p>V. ECON Committee on Economic and Monetary Affairs</p> <p>VI. JURI Committee on Legal Affairs and the Internal Market</p> <p>VII. INDU Committee on Industry, External Trade, Research and Energy</p> <p>VIII. EMPL Committee on Employment and Social Affairs</p> <p>IX. ENVI Committee on the Environment, Public Health and Consumer Policy</p> <p>X. AGRI Committee on Agriculture and Rural Development</p> <p>XI. PECH Committee on Fisheries</p> <p>XII. REGI Committee on Regional Policy, Transport and Tourism</p> <p>XIII. CULT Committee on Culture, Youth, Education, the Media and Sport</p> <p>XIV. DEVE Committee on Development and Cooperation</p> <p>XV. AFCO Committee on Constitutional Affairs</p> <p>XVI. FEMM Committee on Women's Rights and Equal Opportunities</p> <p>XVII. PETI Committee on Petitions</p> |
| <p>(The type of procedure depends on the legal basis proposed by the Commission)</p> | |

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PROCEDURAL PAGE

At its sitting of 23 October 1997 Parliament delivered its opinion at first reading on the proposal for a directive of the European Parliament and the Council relating to cocoa and chocolate products intended for human consumption (COM(1995) 722 – 1996/0112(COD)).

At the sitting of 19 November 1999 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (9947/1/1999 – C5-0252/1999).

At its meeting of 27 June 1996, the committee had appointed Mr Paul Lannoye rapporteur

It considered the common position and the draft recommendation for second reading at its meetings of 26 January 2000 and 15 and 23 February 2000.

At the last meeting it adopted the draft legislative resolution by 38 votes to 10, with 2 abstentions.

The following were present for the vote: Jackson, chairman; Lage and de Roo, vice-chairmen; Lannoye, rapporteur; Arvidsson, Ayuso González, Bowis, Blokland, Bowe, Breyer, Bushill-Matthews (for De Sarnez), Corbey, Davies, Doyle, Fatuzzo (for Flemming), Florenz, García Orcoyen Tormo, González Álvarez, Goodwill, Grossetête, Gutiérrez-Cortines, Helmer, Hulthén, Isler Béguin, Klass, Korhola, Lienemann, Liese, Lund, Maaten, Malliori, E. Müller, R. Müller, Myller, Ollson, Oomen-Ruijten, Papayannakis, Patrie, Paulsen, Ries, Roth-Behrendt, Sacconi, Scheele, Schnellhardt, Sjöstedt, Sornosa Martínez, Staes (for Schörling), Sturdy (for Moreira Da Silva), Taylor, Trakatellis, Thyssen (for Nistico), Vachetta, Van Brempt (for Lange) and Whitehead.

The recommendation for second reading was tabled on 25 February 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the common position adopted by the Council with a view to adopting a European Parliament and Council directive relating to cocoa and chocolate products intended for human consumption (9947/1/1999 – C5-0252/1999 – 1996/0112(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (9947/1/1999 – C5-0252/1999),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(1995) 722²),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0047/2000),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 339, 10.11.1997, p. 128.

² OJ C 231, 9.8.1996, p.1.

(Amendment 1)
Recital 14a (new)

(14a) Cocoa, cocoa butter and a series of other vegetable fats used in the manufacture of chocolate are mainly produced in developing countries; whereas it is in the interests of people living in the various developing countries that agreements of as long a duration as possible should be concluded; whereas the Commission should therefore consider how the Community can support this in the case of cocoa butter and other vegetable fats (for example by promoting 'fair trade');

(Amendment 2)
Annex II, point (c)

(c) they are obtained only by the processes of refining and/or fractionation, which excludes enzymatic modification of the triglyceride structure.

(c) they are obtained only by the processes of refining and/or fractionation, which excludes enzymatic modification of the triglyceride structure or genetic engineering.

EXPLANATORY STATEMENT

I. INTRODUCTION

This recommendation follows on from the common position adopted by the Council with a view to the adoption of a directive of the European Parliament and of the Council relating to cocoa and chocolate products intended for human consumption.

The Commission put forward its proposal for a directive in April 1996³ as part of the process of simplifying certain existing legislation approved at the European Council meeting in Edinburgh in December 1992. The main purpose of the Commission's proposal was to ensure, by simplifying the 1973 directive⁴, the free movement of cocoa products and chocolate for human consumption within the European Community. To that end, the Commission submitted a proposal to extend to all the Member States the possibility of using vegetable fats other than cocoa butter in cocoa products and chocolate, whereas previously such fats had been used in only seven Member States.

II. PARLIAMENT'S FIRST READING

On 23 October 1997 the European Parliament adopted (Resolution A4-0310/97) a certain number of amendments, proposed by the rapporteur and supported by a large majority, to change the emphasis of the Commission proposal, the effect of which would be to generalise a food previously favoured in certain Member States, by ensuring that the proposal contained adequate guarantees to protect both producers of cocoa and consumers of chocolate.

1. The EP adopted an amendment (amendment 15) seeking to define a method of verification of the amount of vegetable fats other than cocoa butter added to chocolate products: for, although the Commission proposed introducing a very precise limit (5%) for vegetable fats in chocolate products, it did not have at its disposal a sufficiently reliable method of verifying the exact proportion of vegetable fats in the finished product.
2. Parliament also adopted an amendment (amendment 36) calling for chocolate products containing vegetable fats to be labelled, in addition to their list of ingredients, by a 'conspicuous and clearly legible statement: 'also contains vegetable fats other than cocoa butter'. This statement had to appear 'on the front of the product'.

The Commission had also called for specific labelling, but it would have been positioned in such a way that, in practice, few consumers would have been alerted to the change in the ingredients of the product.

3. Parliament also adopted a new Article 6a (amendment 16) calling for the Commission to carry out, before 1 January 2002, 'a study into the impact of this directive on the export of cocoa by the developing countries' and inform the European Parliament of its findings; '(...) should the study show that this directive is adversely affecting the export position

³ Proposal for a European Parliament and Council Directive relating to cocoa and chocolate products intended for human consumption submitted by the Commission (COM(95)722 final).

⁴ Council Directive 73/241/EEC on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption.

of the developing countries, the Commission shall submit a proposal for its amendment to the European Parliament and Council'. It is indeed possible that the effect of a directive of this kind on the economy of cocoa-producing countries would be to threaten the economic and social stability of the developing countries in question. One aim of this amendment was to comply with the various international agreements to which the Union subscribes and under which the Union is committed to promoting the economic and social development of the developing countries.

4. It was in the same spirit that Parliament adopted amendment 37, which seeks to restrict the use of alternative vegetable fats to 'tropical fats not obtained using enzymatic production processes', to enable the producer countries to compensate for the potential loss of exports as a result of the introduction of other vegetable fats than cocoa butter by ensuring that they are the sole producers of the substitute vegetable fats.
5. Finally, Parliament adopted an amendment (amendment 40) to restrict the name 'quality chocolate' to products containing 'no vegetable fats other than cocoa butter'.

III. THE COMMON POSITION

The common position adopted by the Council incorporated two of these amendments, thus meeting Parliament's wish that the kinds of vegetable fats to be used be clearly specified. Thus:

- a new annex (Annex II) specifies the various vegetable fats that may be used to partially replace cocoa butter;
- Annex II also excludes the use of enzymatic production processes.

Moreover, the Council has also added a new recital 10 partially incorporating Parliament's amendment on quality chocolate. The recital specifies that Directive 79/112/EEC on the labelling of foodstuffs 'does not preclude the labelling of chocolate products to indicate that vegetable fats other than cocoa butter have not been added'.

On the other hand:

- the Council does not provide for the introduction of a reliable method of verification to enable the percentage of vegetable fats other than cocoa butter to be measured precisely;
- the Council provides only for a retrospective study of the impact of the directive on exporting countries (66 months after the directive's entry into force);
- although improving the labelling of vegetable fats by ensuring that it is clearer, the Council proposal endorses the Commission's position by relegating information concerning the inclusion of vegetable fats to an area of the packaging which is unlikely to attract the consumer's attention sufficiently.

Moreover, the principle of subsidiarity, whereby the Commission proposal enabled Member States to choose whether or not to allow the composition of their chocolate to be modified, has completely disappeared.

IV. CONCLUSIONS

The rapporteur intends, to remedy these deficiencies and restore the priorities already established in the report adopted on first reading, to retable the amendments rejected by Council, namely those seeking to define a method of verification to enable the amount of vegetable fats other than cocoa butter contained in chocolate products *to be determined exactly*, carry out an impact study on the export of cocoa in developing countries *within a reasonable time limit*, introduce clear and conspicuous labelling for consumers and apply the name 'quality chocolate' exclusively to chocolates containing no vegetable fats other than cocoa butter.

In view of consumers' increasing distrust of the use of genetic engineering in food production and various genuine doubts as to the possible ill effects of such methods, we also propose prohibiting the use of such methods for the production of the alternative vegetable fats in question.