

DIRECTIVE 2000/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 23 June 2000
relating to cocoa and chocolate products intended for human consumption

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Certain vertical Directives relating to foodstuffs should be simplified in order to take account only of the essential requirements to be met by the products they cover in order that those products may move freely within the internal market, in accordance with the conclusions of the European Council held in Edinburgh on 11 and 12 December 1992, confirmed by those of the European Council in Brussels on 10 and 11 December 1993.
- (2) Council Directive 73/241/EEC of 24 July 1973 on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption ⁽⁴⁾ was warranted by the fact that differences between national laws on several kinds of cocoa and chocolate products could hinder the free movement of this product, and thereby have a direct effect on the establishment and functioning of the common market.
- (3) The aforesaid Directive was consequently designed to lay down definitions and common rules in respect of the composition, manufacturing specifications, packaging and labelling of cocoa and chocolate products so as to ensure their free movement within the Community.
- (4) Those definitions and rules should be amended to take account of technological progress and changes in consumer tastes, and should be brought into line with general Community legislation on foodstuffs, in particular legislation on labelling, sweeteners and other authorised additives, flavourings, extraction solvents and methods of analysis.

- (5) The addition to chocolate products of vegetable fats other than cocoa butter, up to a maximum of 5 %, is permitted in certain Member States.
- (6) The addition of certain vegetable fats other than cocoa butter to chocolate products, up to a maximum of 5 %, should be permitted in all Member States; those vegetable fats should be cocoa butter equivalents and therefore be defined according to technical and scientific criteria.
- (7) In order to guarantee the single nature of the internal market, all chocolate products covered by this Directive must be able to move within the Community under the sales names set out in the provisions of Annex I to this Directive.
- (8) In pursuance of the general food-labelling rules set out in Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽⁵⁾, in particular a listing of ingredients in accordance with Article 6 thereof is compulsory; this Directive makes Directive 79/112/EEC applicable to cocoa and chocolate products in order to provide consumers with correct information.
- (9) In the case of chocolate products to which vegetable fats other than cocoa butter have been added, consumers should be guaranteed correct, neutral and objective information in addition to the list of ingredients.
- (10) On the other hand, Directive 79/112/EEC does not preclude the labelling of chocolate products to indicate that vegetable fats other than cocoa butter have not been added, provided the information is correct, neutral, objective, and does not mislead the consumer.
- (11) Certain sales names which are reserved by this Directive are in fact used in composite sales names which are recognised in certain Member States to describe products which could not be confused with those defined in this Directive; such descriptions should therefore be maintained. However, the use of such names should comply with the provisions of Directive 79/112/EEC and, in particular, with Article 5 thereof.

⁽¹⁾ OJ C 231, 9.8.1996, p. 1 and OJ C 118, 17.4.1998, p. 10.

⁽²⁾ OJ C 56, 24.2.1997, p. 20.

⁽³⁾ Opinion of the European Parliament of 23 October 1997 (OJ C 339, 10.11.1997, p. 128), Council Common Position of 28 October 1999 (OJ C 10, 13.1.2000, p. 1) and decision of the European Parliament of 15 March 2000 (not yet published in the Official Journal). Decision of the Council of 25 May 2000.

⁽⁴⁾ OJ L 228, 16.8.1973, p. 23. Directive as last amended by Directive 89/344/EEC (OJ L 142, 25.5.1989, p. 19).

⁽⁵⁾ OJ L 33, 8.2.1979, p. 1. Directive as last amended by European Parliament and Council Directive 97/4/EC (OJ L 43, 14.2.1997, p. 21).

- (12) The development of the internal market since the adoption of Directive 73/241/EEC enables 'plain chocolate' to be treated on the same basis as 'chocolate'.
- (13) The derogation provided for in Directive 73/241/EEC allowing the United Kingdom and Ireland to authorise the use on their territory of the name 'milk chocolate' to designate 'milk chocolate with high milk content' should be maintained; however, the English name 'milk chocolate with high milk content' should be replaced with the name 'family milk chocolate'.
- (14) Pursuant to the principle of proportionality, this Directive restricts itself to what is necessary in order to achieve the objectives of the Treaty, in accordance with the third paragraph of Article 5 thereof.
- (15) Cocoa, cocoa butter and a series of other vegetable fats used in the manufacture of chocolate are mainly produced in developing countries. It is in the interests of people living in developing countries that agreements of as long a duration as possible should be concluded. 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').
- (16) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (17) To avoid creating new barriers to free circulation, Member States should refrain from adopting, for the products in question, national provisions not provided for by this Directive,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to the cocoa and chocolate products intended for human consumption, as defined in Annex I.

Article 2

1. The vegetable fats other than cocoa butter as defined in Annex II and listed therein may be added to those chocolate products defined in Annex I(A)(3), (4), (5), (6), (8) and (9). That addition may not exceed 5 % of the finished product, after deduction of the total weight of any other edible matter used in accordance with Annex I(B), without reducing the minimum content of cocoa butter or total dry cocoa solids.

2. Chocolate products which, pursuant to paragraph 1, 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 in addition to cocoa butter'. This statement shall be in the same field of vision as the list of ingredients, clearly separated from that list, in lettering at least as large and in bold with the sales name nearby; notwithstanding this requirement, the sales name may also appear elsewhere.

3. Any amendments to Annex II shall be made in accordance with the procedure laid down in Article 95 of the Treaty.

4. At the latest by 3 February 2006 the Commission shall, in accordance with Article 95 of the Treaty, submit, if necessary and taking into account the results of an appropriate study on this Directive's impact on the economies of those countries producing cocoa and vegetable fats other than cocoa butter, a proposal intended to amend the list in Annex II.

Article 3

Directive 79/112/EEC shall apply to the products defined in Annex I, subject to the following conditions:

1. The sales names listed in Annex I shall apply only to the products referred to therein and must be used in trade to designate them.

However, those sales names may also be used additionally and in accordance with the provisions or customs applicable in the Member State in which the product is sold to the final consumer, to designate other products which cannot be confused with those defined in Annex I.

2. Where the products defined in Annex I(A)(3), (4), (5), (6), (7) and (10) are sold in assortments, the sales names may be replaced by 'assorted chocolates' or 'assorted filled chocolates' or similar names. In that case, there may be a single list of ingredients for all the products in the assortment.

3. The labelling of the cocoa and chocolate products defined in Annex I(A)(2)(c), (2)(d), (3), (4), (5), (8) and (9) must indicate the total dry cocoa solids content by including the words: 'cocoa solids:... % minimum'.

4. For the products referred to in Annex I(A)(2)(b) and (2)(d) (second part of the sentence), the labelling must indicate the cocoa butter content.

5. The sales names 'chocolate', 'milk chocolate' and 'couverture chocolate' specified in Annex I may be supplemented by information or descriptions relating to quality criteria provided that the products contain:

— in the case of chocolate, not less than 43 % total dry cocoa solids, including not less than 26 % cocoa butter,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

- in the case of milk chocolate, not less than 30 % total dry cocoa solids and not less than 18 % dry milk solids obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, including not less than 4,5 % milk fat,
- in the case of couverture chocolate, not less than 16 % of dry non-fat cocoa solids.

Article 4

For the products defined in Annex I, Member States shall not adopt national provisions not provided for by this Directive.

Article 5

1. The measures necessary for the implementation of this Directive relating to the matters referred to below shall be adopted in accordance with the regulatory procedure referred to in Article 6(2):

- bringing this Directive into line with general Community provisions applicable to foodstuffs,
- adaptation of the provisions in Annex I(B)(2), (C) and (D) to technical progress.

2. At the latest by 3 August 2003, without prejudice to Article 2(3), the European Parliament and the Council shall re-examine, on a proposal from the Commission, the second indent of paragraph 1 of this Article, with a view to possible extension of the procedure of adaptation to technical and scientific progress.

Article 6

1. The Commission shall be assisted by the Standing Committee on Foodstuffs, set up by Council Decision 69/414/EEC⁽¹⁾, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

Article 7

Council Directive 73/241/EEC is hereby repealed with effect from 3 August 2003.

References to the repealed Directive shall be construed as references to this Directive.

Article 8

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 3 August 2003. They shall immediately inform the Commission thereof.

2. These measures shall be applied so as to:

- authorise the marketing of the products defined in Annex I if they conform to the definitions and rules laid down in this Directive, with effect from 3 August 2003,
- prohibit the marketing of products which fail to conform to this Directive, with effect from 3 August 2003.

However, the marketing of products failing to comply with this Directive but labelled before 3 August 2003 in accordance with Council Directive 73/241/EEC shall be permitted until stocks are exhausted.

3. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 9

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 10

This Directive is addressed to the Member States.

Done at Luxembourg, 23 June 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

J. SÓCRATES

⁽¹⁾ OJ L 291, 19.11.1969, p. 9.

ANNEX I

SALES NAMES, DEFINITIONS AND CHARACTERISTICS OF THE PRODUCTS

A. SALES NAMES AND DEFINITIONS

1. **Cocoa butter**

designates the fat obtained from cocoa beans or parts of cocoa beans with the following characteristics:

- free fatty acid content
(expressed as oleic acid): not more than 1,75 %
- unsaponifiable matter
(determined using petroleum ether): not more than 0,5 %, except in the case of press cocoa butter, where it shall not be more than 0,35 %

2. (a) **Cocoa powder, cocoa**

designate the product obtained by converting into powder cocoa beans which have been cleaned, shelled and roasted, and which contains not less than 20 % cocoa butter, calculated according to the weight of the dry matter, and not more than 9 % water;

(b) **Fat-reduced cocoa, fat-reduced cocoa powder**

designate cocoa powder containing less than 20 % cocoa butter, calculated according to the weight of the dry matter;

(c) **Powdered chocolate, chocolate in powder**

designate the product consisting of a mixture of cocoa powder and sugars, containing not less than 32 % cocoa powder;

(d) **Drinking chocolate, sweetened cocoa, sweetened cocoa powder**

designate the product consisting of a mixture of cocoa powder and sugars, containing not less than 25 % cocoa powder; these names shall be accompanied by the term 'fat-reduced' in the case where the product is fat-reduced as defined at (b).

3. **Chocolate**

(a) designates the product obtained from cocoa products and sugars which, subject to (b), contains not less than 35 % total dry cocoa solids, including not less than 18 % cocoa butter and not less than 14 % of dry non-fat cocoa solids;

(b) however, where this name is supplemented by the words:

- '*vermicelli*' or '*flakes*': the product presented in the form of granules or flakes must contain not less than 32 % total dry cocoa solids, including not less than 12 % cocoa butter and not less than 14 % of dry non-fat cocoa solids;
- '*couverture*': the product must contain not less than 35 % total dry cocoa solids, including not less than 31 % cocoa butter and not less than 2,5 % of dry non-fat cocoa solids;
- '*Gianduja*' (or one of the derivatives of the word '*gianduja*') nut chocolate: the product must be obtained firstly from chocolate having a minimum total dry cocoa solids content of 32 % including a minimum dry non-fat cocoa solids content of 8 %, and secondly from finely ground hazelnuts in such quantities that 100 g of the product contain not less than 20 g and not more than 40 g of hazelnuts. The following may be added:

- (a) milk and/or dry milk solids obtained by evaporation, in such proportion that the finished product does not contain more than 5 % dry milk solids;
- (b) almonds, hazelnuts and other nut varieties, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 % of the total weight of the product.

4. **Milk chocolate**

(a) designates the product obtained from cocoa products, sugars and milk or milk products, which, subject to (b) contains:

- not less than 25 % total dry cocoa solids,
- not less than 14 % dry milk solids obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat,
- not less than 2,5 % dry non-fat cocoa solids,
- not less than 3,5 % milk fat,
- not less than 25 % total fat (cocoa butter and milk fat).

- (b) However, where this name is supplemented by the words:
- ‘*vermicelli*’ or ‘*flakes*’: the product presented in the form of granules or flakes must contain not less than 20 % total dry cocoa solids, not less than 12 % dry milk solids obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, and not less than 12 % total fat (cocoa butter and milk fat),
 - ‘*couverture*’: the product must have a minimum total fat (cocoa butter and milk fat) content of 31 %,
 - ‘*Gianduja*’ (or one of the derivatives of the word ‘*gianduja*’) nut milk chocolate: the product must be obtained firstly from milk chocolate having a minimum content of 10 % of dry milk solids, obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream or from partly or wholly dehydrated cream, butter or milk fat and secondly from finely ground hazelnuts, in such quantities that 100 g of the product contain not less than 15 g and not more than 40 g of hazelnuts. Almonds, hazelnuts and other nut varieties may also be added, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 % of the total weight of the product.
- (c) Where in this name the word ‘milk’ is replaced by:
- ‘*cream*’: the product must have a minimum milk fat content of 5,5 %,
 - ‘*skimmed milk*’: the product must have a milk fat content not greater than 1 %.
- (d) The United Kingdom and Ireland may authorise the use in their territory of the name ‘milk chocolate’ to designate the product referred to in point 5, on condition that the term is accompanied in both cases by an indication of the amount of dry milk solids laid down for each of the two products, in the form ‘milk solids: ... % minimum’.

5. **Family milk chocolate**

designates the product obtained from cocoa products, sugars and milk or milk products and which contains:

- not less than 20 % total dry cocoa solids,
- not less than 20 % dry milk solids obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat,
- not less than 2,5 % dry non-fat cocoa solids,
- not less than 5 % milk fat,
- not less than 25 % total fat (cocoa butter and milk fat).

6. **White chocolate**

designates the product obtained from cocoa butter, milk or milk products and sugars which contains not less than 20 % cocoa butter and not less than 14 % dry milk solids obtained by partly or wholly dehydrating whole milk, semi- or full-skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, of which not less than 3,5 % is milk fat.

7. **Filled chocolate, chocolate with ... filling, chocolate with ... centre**

designate the filled product, the outer part of which consists of one of the products defined in 3, 4, 5 and 6. The designations do not apply to products, the inside of which consists of bakery products, pastry, biscuit or edible ice.

The outer chocolate portion of products bearing one of these names shall constitute not less than 25 % of the total weight of the product.

8. **Chocolate a la taza**

designates the product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 35 % total dry cocoa solids, including not less than 18 % cocoa butter and not less than 14 % dry non-fat cocoa solids, and not more than 8 % flour or starch.

9. **Chocolate familiar a la taza**

designates the product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 30 % total dry cocoa solids, including not less than 18 % cocoa butter and not less than 12 % dry non-fat cocoa solids, and not more than 18 % flour or starch.

10. **A chocolate or a praline**

designates the product in single-mouthful size, consisting of:

- filled chocolate, or
- a single chocolate or a combination or a mixture of chocolate within the meaning of the definitions given in 3, 4, 5 or 6 and other edible substances, provided that chocolate constitutes not less than 25 % of the total weight of the product.

B. OPTIONAL AUTHORISED INGREDIENTS*Additions of edible substances*

1. Without prejudice to Article 2 and Section B(2), other edible substances may also be added to the chocolate products defined in Section A(3), (4), (5), (6), (8) and (9).

However, the addition:

- of animal fats and their preparations not deriving solely from milk shall be prohibited,
- of flours, granular or powdered starch shall only be authorised where the addition is in accordance with the definitions laid down in Section A(8) and (9).

The quantity of those edible substances added may not exceed 40 % of the total weight of the finished product.

2. Only those flavourings which do not mimic the taste of chocolate or of milk fat may be added to the products defined in Section A(2), (3), (4), (5), (6), (8) and (9).

C. CALCULATION OF PERCENTAGES

The minimum contents of the products set in Section A(3), (4), (5), (6), (8) and (9) shall be calculated after deduction of the weight of the ingredients provided for in Section B. In the case of the products in Section A(7) and (10), the minimum contents shall be calculated after deducting the weight of the ingredients provided for in Section B, as well as the weight of the filling.

The chocolate contents of the products defined in Section A(7) and (10) shall be calculated in relation to the total weight of the finished product, including its filling.

D. SUGARS

Sugars as referred to in this Directive are not limited only to those sugars covered by Council Directive 73/437/EEC of 11 December 1973 on the approximation of the laws of the Member States concerning certain sugars intended for human consumption ⁽¹⁾.

⁽¹⁾ OJ L 356, 27.12.1973, p. 71. Directive as last amended by the 1985 Act of Accession.

ANNEX II

VEGETABLE FATS REFERRED TO IN ARTICLE 2(1)

The vegetable fats referred to in Article 2(1) are, singly or in blends, cocoa butter equivalents and shall comply with the following criteria:

- (a) they are non-lauric vegetable fats, which are rich in symmetrical monounsaturated triglycerides of the type POP, POSt and StOSt ⁽¹⁾;
- (b) they are miscible in any proportion with cocoa butter, and are compatible with its physical properties (melting point and crystallisation temperature, melting rate, need for tempering phase);
- (c) they are obtained only by the processes of refining and/or fractionation, which excludes enzymatic modification of the triglyceride structure.

In conformity with the above criteria, the following vegetable fats, obtained from the plants listed below, may be used:

Usual name of vegetable fat	Scientific name of the plants from which the fats listed can be obtained
1. Illipe, Borneo tallow or Tengawang	<i>Shorea</i> spp.
2. Palm-oil	<i>Elaeis guineensis</i> <i>Elaeis olifera</i>
3. Sal	<i>Shorea robusta</i>
4. Shea	<i>Butyrospermum parkii</i>
5. Kokum gurgi	<i>Garcinia indica</i>
6. Mango kernel	<i>Mangifera indica</i>

Furthermore, as an exception to the above, Member States may allow the use of coconut oil for the following purpose: in chocolate used for the manufacture of ice cream and similar frozen products.

⁽¹⁾ P (palmitic acid), O (oleic acid), St (stearic acid).