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Consejo de los Aspectos de los Derechos de Propiedad  
Intelectual relacionados con el Comercio

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PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Comunidades Europeas

En el presente documento se reproduce el texto de la Directiva del Consejo de 18 de diciembre de 1978 relativa a la aproximación de las legislaciones de los Estados miembros en materia de etiquetado, presentación y publicidad de los productos alimenticios destinados al consumidor final, notificada por las Comunidades Europeas en virtud del párrafo 2 del artículo 63 del Acuerdo mediante una comunicación de fecha 11 de julio de 1996.

II

*(Acts whose publication is not obligatory)*

COUNCIL

COUNCIL DIRECTIVE

of 18 December 1978

on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer

(79/112/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 227 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas differences which exist at present between the laws, regulations and administrative provisions of Member States on the labelling of foodstuffs impede the free circulation of these products and can lead to unequal conditions of competition;

Whereas, therefore, approximation of these laws would contribute to the smooth functioning of the common market;

Whereas the purpose of this Directive should be to enact Community rules of a general nature applicable horizontally to all foodstuffs put on the market;

Whereas rules of a specific nature which apply vertically only to particular foodstuffs should be laid down in provisions dealing with those products;

Whereas, moreover, the field of application of this Directive should be limited to foodstuffs intended for sale to the ultimate consumer, and the rules governing the labelling of products intended for subsequent processing or preparation should be fixed at a later stage;

Whereas the prime consideration for any rules on the labelling of foodstuffs should be the need to inform and protect the consumer;

Whereas, therefore, a list should be drawn up of all information which should in principle be included in the labelling of all foodstuffs;

Whereas, however, the horizontal nature of this Directive does not allow, at the initial stage, the inclusion in the compulsory indications of all the indications which must be added to the list applying in principle to the whole range of foodstuffs; whereas, during the second stage, Community provisions should be adopted, aimed at supplementing the existing rules; whereas it would accordingly seem necessary to adopt as a matter of priority Community provisions regarding the indication of certain ingredients in the sales description or by indicating a quantity;

<sup>(1)</sup> OJ No C 91, 22. 4. 1976, p. 3.

<sup>(2)</sup> OJ No C 178, 2. 8. 1976, p. 52.

<sup>(3)</sup> OJ No C 285, 2. 12. 1976, p. 3.

Whereas, furthermore, if in the absence of Community rules of a specific nature Member States should retain the right to lay down certain national provisions which may be added to the general provisions of this Directive, nevertheless these provisions should be subject to a Community procedure;

Whereas the said Community procedure may consist simply in informing the Commission and the Member States when the matter concerns the maintenance of national provisions that precede this Directive, but must be that of a Community Decision when a Member State wishes to enact new legislation;

Whereas provision should also be made for the Community legislator to derogate, in exceptional cases, from certain obligations that have been fixed generally;

Whereas the rules on labelling should also prohibit the use of information that would mislead the purchaser or attribute medicinal properties to foodstuffs; whereas, to be effective, this prohibition should also apply to the presentation and advertising of foodstuffs;

Whereas Member States should retain the right, depending on local conditions and circumstances, to lay down rules in respect of the labelling of foodstuffs sold in bulk; whereas, in such cases, information should nevertheless be provided for the consumer;

Whereas, with the aim of simplifying and accelerating the procedure, the Commission should be entrusted with the task of adopting implementing measures of a technical nature;

Whereas in all cases where the Council makes the Commission responsible for implementing rules laid down in respect of foodstuffs, provision should be made for a procedure instituting close cooperation between Member States and the Commission within the Standing Committee on Foodstuffs, set up by Decision 69/414/EEC<sup>(1)</sup>;

Whereas foodstuffs in Greenland are manufactured and marketed under conditions fundamentally different from those prevailing in the other parts of

the Community because of the island's general situation and, in particular, because of its commercial structures, low population, considerable area and special geographical situation,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

1. This Directive concerns the labelling of foodstuffs to be delivered as such to the ultimate consumer and certain aspects relating to the presentation and advertising thereof.
2. Without prejudice to the Community provisions to be adopted in this field, this Directive shall apply also to foodstuffs intended for supply to restaurants, hospitals, canteens and other similar mass caterers, in so far as the Member States shall so decide.
3. For the purpose of this Directive,
  - (a) 'labelling' shall mean any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a foodstuff and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such foodstuff;
  - (b) 'pre-packaged foodstuff' shall mean any single item for presentation as such to the ultimate consumer, consisting of a foodstuff and the packaging into which it was put before being offered for sale, whether such packaging encloses the foodstuff completely or only partially, but in any case in such a way that the contents cannot be altered without opening or changing the packaging.

#### *Article 2*

1. The labelling and methods used must not:
  - (a) be such as could mislead the purchaser to a material degree, particularly:
    - (i) as to the characteristics of the foodstuff and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production,

<sup>(1)</sup> OJ No L 291, 29. 11. 1969, p. 9.

- (ii) by attributing to the foodstuff effects or properties which it does not possess,
  - (iii) by suggesting that the foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics;
- (b) subject to the provisions applicable to foodstuffs for particular nutritional uses, attribute to any foodstuff the property of preventing, treating or curing a human disease, or refer to such properties; Community provisions or, where there are none, national provisions may derogate from this rule in the case of natural mineral waters.

The procedure laid down in Article 16 shall apply to any such national provisions.

2. The Council, in accordance with the procedure laid down in Article 100 of the Treaty, shall draw up a non-exhaustive list of the claims within the meaning of paragraph 1, the use of which must at all events be prohibited or restricted.

3. The prohibitions or restrictions referred to in paragraphs 1 and 2 shall also apply to:

- (a) the presentation of foodstuffs, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed;
- (b) advertising.

#### Article 3

1. In accordance with Articles 4 to 14 and subject to the exceptions contained therein, indication of the following particulars alone shall be compulsory on the labelling of foodstuffs:

- (1) the name under which the product is sold,
- (2) the list of ingredients,
- (3) in the case of prepackaged foodstuffs, the net quantity,
- (4) the date of minimum durability,
- (5) any special storage conditions or conditions of use,

- (6) the name or business name and address of the manufacturer or packager, or of a seller established within the Community.

However, the Member States shall be authorized, in respect of butter produced in their territory, to require only an indication of the manufacturer, packager or seller.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph,

- (7) particulars of the place of origin or provenance in the cases where failure to give such particulars might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff,
- (8) instructions for use when it would be impossible to make appropriate use of the foodstuff in the absence of such instructions.

2. Notwithstanding the previous paragraph, Member States may retain national provisions which require indication of the factory or packaging centre, in respect of home production.

3. The provisions of this Article shall be without prejudice to more precise or more extensive provisions regarding weights and measures.

#### Article 4

1. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide for derogations, in exceptional cases, from the requirements laid down in Article 3 (1), points 2 and 4, provided that this does not result in the purchaser being inadequately informed.

2. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide that other particulars in addition to those listed in Article 3 must appear on the labelling.

Where there are no Community provisions, Member States may make provision for such particulars in accordance with the procedure laid down in Article 16.

#### Article 5

1. The name under which a foodstuff is sold shall be the name laid down by whatever laws, regulations or administrative provisions apply to the foodstuff in question or, in the absence of any such name, the

name customary in the Member State where the product is sold to the ultimate consumer, or a description of the foodstuff and, if necessary, of its use, that is sufficiently precise to inform the purchaser of its true nature and to enable it to be distinguished from products with which it could be confused.

2. No trade mark, brand name or fancy name may be substituted for the name under which the product is sold.

3. The name under which the product is sold shall include or be accompanied by particulars as to the physical condition of the foodstuff or the specific treatment which it has undergone (e.g. powdered, freeze-dried, deep-frozen, concentrated, smoked) in all cases where omission of such information could create confusion in the mind of the purchaser.

#### Article 6

1. Ingredients shall be listed in accordance with this Article and the Annexes.

2. Ingredients need not be listed in the case of:

(a) — fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated,

— carbonated water, the description of which indicates that it has been carbonated,

— fermentation vinegars derived exclusively from a single basic product, provided that no other ingredient has been added;

(b) — cheese,

— butter,

— fermented milk and cream,

provided that no ingredient has been added other than lactic products, enzymes and micro-organism cultures essential to manufacture, or the salt needed for the manufacture of cheese other than fresh cheese and processed cheese;

(c) products consisting of a single ingredient.

3. In the case of beverages containing more than 1.2 % by volume of alcohol, the Council, acting on a proposal from the Commission, shall, before the expiry of a period of four years following notification of this Directive, determine the rules for labelling

ingredients and, possibly, indicating the alcoholic strength.

4. (a) 'Ingredient' shall mean any substance, including additives, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in altered form.

(b) Where an ingredient of the foodstuff is itself the product of several ingredients, the latter shall be regarded as ingredients of the foodstuff in question.

(c) The following shall not be regarded as ingredients:

(i) the constituents of an ingredient which have been temporarily separated during the manufacturing process and later reintroduced but not in excess of their original proportions;

(ii) — additives:

— whose presence in a given foodstuff is solely due to the fact that they were contained in one or more ingredients of that foodstuff, provided that they serve no technological function in the finished product,

— which are used as processing aids;

— substances used in the quantities strictly necessary as solvents or media for additives or flavouring.

(d) In certain cases Decisions may be taken in accordance with the procedure laid down in Article 17 as to whether the conditions described in (c) (ii) are satisfied.

5. (a) The list of ingredients shall include all the ingredients of the foodstuff, in descending order of weight, as recorded at the time of their use in the manufacture of the foodstuff. It shall appear preceded by a suitable heading which includes the word 'ingredients'.

However:

— added water and volatile products shall be listed in order of their weight in the finished product; the amount of water added as an ingredient in a foodstuff shall be calculated by deducting from the total amount of the finished product the total amount of the other ingredients used. This amount need not be taken into consideration if it does not exceed 5 % by weight of the finished product;

- ingredients used in concentrated or dehydrated form and reconstituted at the time of manufacture may be listed in order of weight as recorded before their concentration or dehydration;
  - in the case of concentrated or dehydrated foods which are intended to be reconstituted by the addition of water, the ingredients may be listed in order of proportion in the reconstituted product provided that the list of ingredients is accompanied by an expression such as 'ingredients of the reconstituted product', or 'ingredients of the ready-to-use product';
  - in the case of mixtures of fruit or vegetables where no particular fruit or vegetable significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion';
  - in the case of mixtures of spices or herbs, where none significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion';
- (b) ingredients shall be designated by their specific name, where applicable, in accordance with the rules laid down in Article 5.
- However:
- ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category;
  - ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EEC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated; amendments to this Annex based on advances in scientific and technical knowledge shall be adopted in accordance with the procedure laid down in Article 17;
- flavouring matter shall be described in accordance with the national provisions applicable thereto, until the entry into force of the Community provisions;
  - the Community provisions or, where there are none, the national provisions applicable to certain specified foodstuffs, many also provide for categories additional to those specified in Annex I. Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this indent.
6. Community provisions or, where there are none, national provisions may lay down that the name under which a specific foodstuff is sold is to be accompanied by mention of a particular ingredient or ingredients.
- The procedure laid down in Article 16 shall apply to any such national provisions.
7. In the case referred to in paragraph 4 (b), a compound ingredient may be included in the list of ingredients, under its own designation in so far as this is laid down by law or established by custom, in terms of its overall weight, provided that it is immediately followed by a list of its ingredients.
- Such a list, however, shall not be compulsory:
- where the compound ingredient constitutes less than 25 % of the finished product; however, this exemption shall not apply in the case of additives, subject to the provisions of paragraph 4 (c),
  - where the compound ingredient is a foodstuff for which a list of ingredients is not required under Community rules.
8. Notwithstanding paragraph 5 (a), the water content need not be specified:
- (a) where the water is used during the manufacturing process solely for the reconstitution of an ingredient used in concentrated or dehydrated form;
  - (b) in the case of a liquid medium which is not normally consumed.
- Article 7*
1. Where the labelling of a foodstuff places emphasis on the presence or low content of one or

more ingredients which are essential to the specific properties of the foodstuff, or where the description of the foodstuff has the same effect, the minimum or maximum percentage, as the case may be, used in the manufacture thereof shall be stated.

This information shall appear either immediately next to the name under which the foodstuff is sold or in the list of ingredients in connection with the ingredient in question.

In accordance with the procedure laid down in Article 17, it may be decided that, in the case of certain ingredients, the percentage referred to in this paragraph shall be expressed in absolute terms.

2. Paragraph 1 shall not apply:

(a) in the case of labelling which is intended to characterize a foodstuff in accordance with Article 5 (1) or which is required under Community provisions or, where there are none, under national provisions applicable to certain foodstuffs;

(b) in the case of ingredients used in small quantities only as flavourings.

3. Community provisions or, where there are none, national provisions may stipulate for certain foodstuffs, as well as in the case referred to in paragraph 2 (a), that quantities of certain ingredients must be indicated either in absolute terms or as percentages and that, where appropriate, mention should be made of any alteration in the quantities of these ingredients.

The procedure laid down in Article 16 shall apply to any such national provisions.

#### Article 8

1. The net quantity of prepackaged foodstuffs shall be expressed:

- in units of volume in the case of liquids,
- in units of mass in the case of other products,

using the litre, centilitre, millilitre, kilogram or gram, as appropriate.

Community provisions or, where there are none, national provisions applicable to certain specified foodstuffs may derogate from this rule.

The procedure laid down in Article 16 shall apply to any such national provisions.

2. (a) Where the indication of a certain type of quantity (e.g. nominal quantity, minimum quantity, average quantity) is required by Community provisions or, where there are none, by national provisions, this quantity shall be regarded as the net quantity for the purposes of this Directive.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

(b) Community provisions or, where there are none, national provisions may, for certain specified foodstuffs classified by quantity in categories, require other indications of quantity.

The procedure laid down in Article 16 shall apply to any such national provisions.

(c) Where a prepackaged item consists of two or more individual prepackaged items containing the same quantity of the same product, the net quantity shall be indicated by mentioning the net quantity contained in each individual package and the total number of such packages. Indication of these particulars shall not, however, be compulsory where the total number of individual packages can be clearly seen and easily counted from the outside and where at least one indication of the net quantity contained in each individual package can be clearly seen from the outside.

(d) Where a prepackaged item consists of two or more individual packages which are not regarded as units of sale, the net quantity shall be given by indicating the total net quantity and the total number of individual packages. Community provisions or, where there are none, national provisions need not, in the case of certain foodstuffs, require indication of the total number of individual packages.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

3. In the case of foodstuffs normally sold by number, Member States need not require indication of the net quantity provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.

Without prejudice to the notification provided for in Article 22, Member States shall inform the

Commission and the other Member States of any measure taken pursuant to this paragraph.

4. Where a solid foodstuff is presented in a liquid medium, the drained net weight of the foodstuff shall also be indicated on the labelling.

For the purposes of this paragraph, 'liquid medium' shall mean the following products, possibly in mixtures, provided that the liquid is merely an adjunct to the essential elements of that preparation and is thus not a decisive factor for the purchase: water, salt water, brine, vinegar, aqueous solutions of sugars, and fruit or vegetable juices in the case of tinned fruit or vegetables.

Methods of checking the drained net weight shall be determined in accordance with the procedure laid down in Article 17.

5. It shall not be compulsory to indicate the net quantity in the case of foodstuffs:

- (a) which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser;
- (b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs.

Community provisions or, where there are none, national provisions applicable to specified foodstuffs may in exceptional cases lay down thresholds which are higher than 5 g or 5 ml provided that this does not result in the purchaser being inadequately informed.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

6. Until the end of the transitional period during which the use of the imperial units of measurement contained in Chapter D of the Annex to Directive 71/354/EEC of 18 October 1971 on the approximation of the laws of the Member States relating to units of measurement <sup>(1)</sup>, as last amended by Directive 76/770/EEC <sup>(2)</sup>, is authorized in the Community, Ireland and the United Kingdom may permit the quantity to be expressed only in imperial units of measurement calculated on the basis of the following conversion rates:

- 1 ml = 0.0352 fluid ounces,
- 1 l = 1.760 pints or 0.220 gallons,
- 1 g = 0.0353 ounces (avoirdupois),
- 1 kg = 2.205 pounds.

#### Article 9

1. The date of minimum durability of a foodstuff shall be the date until which the foodstuff retains its specific properties when properly stored.

It shall be indicated in accordance with the provisions of this Article.

2. The date shall be preceded by the words:

- 'Best before ...' when the date includes an indication of the day,
- 'Best before end ...' in other cases.

However, in the case of certain foodstuffs which, from the microbiological point of view, are highly perishable, Member States may require the words 'use before: ...' to be indicated. Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this subparagraph.

Before the expiry of a period of six years from the date of notification of this Directive, the Council, acting on a proposal from the Commission, shall decide on the common date-indication arrangements for highly perishable foodstuffs of the sort referred to in the second subparagraph.

3. The words referred to in paragraph 2 shall be accompanied by:

- either the date itself, or
- a reference to where the date is given on the labelling.

If need be, these particulars shall be followed by a description of the storage conditions which must be observed if the product is to keep for the specified period.

4. The date shall consist of the day, month and year in uncoded chronological form.

However, in the case of foodstuffs:

- which will not keep for more than three months, an indication of the day and the month will suffice,

<sup>(1)</sup> OJ No L 243, 29. 10. 1971, p. 29.

<sup>(2)</sup> OJ No L 262, 27. 9. 1976, p. 204.



— which will keep for more than three months but not more than 18 months, an indication of the month and year will suffice,

— which will keep for more than 18 months, an indication of the year will suffice.

The manner of indicating the date may be specified according to the procedure laid down in Article 17.

5. In their own territories the Member States may permit the minimum durability period to be expressed otherwise than in terms of the date of minimum durability.

Without prejudice to the notification provided for in Article 22, Member States shall notify the Commission and the other Member States of any measure taken under this paragraph.

6. Subject to the Community provisions governing the products below, an indication of the date of minimum durability shall not be required for:

— fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated,

— wines, liqueur wines, sparkling wines, aromatized wines, fruit wines and sparkling fruit wines,

— beverages containing 10 % or more by volume of alcohol,

— bakers' or pastry-cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture,

— vinegar,

— cooking salt,

— solid sugar,

— confectionery products consisting of flavoured and/or coloured sugars.

#### Article 10

1. The instructions for use of a foodstuff shall be indicated in such a way as to enable appropriate use to be made thereof.

2. Community provisions or, where there are none, national provisions may, in the case of certain foodstuffs, specify the way in which the instructions for use should be indicated.

The procedure laid down in Article 16 shall apply to such national provisions.

#### Article 11

1. (a) When the foodstuffs are prepackaged, the particulars provided for in Article 3 and Article 4 (2) shall appear on the prepackaging or on a label attached thereto.

(b) Notwithstanding point (a) and without prejudice to Community provisions on nominal amounts, Member States may authorize that all or some of the particulars provided for in Article 3 and Article 4 (2) be given only on the relevant trade documents when the foodstuffs are prepackaged and marketed prior to their sale to the ultimate consumer.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

The Council, acting on a proposal from the Commission, shall lay down the provisions to apply subsequently in this connection not later than nine years after notification of this Directive.

2. These particulars shall be easy to understand and marked in a conspicuous place in such a way as to be easily visible, clearly legible and indelible.

They shall not in any way be hidden, obscured or interrupted by other written or pictorial matter.

3. (a) The particulars listed in Article 3 (1), points 1, 3 and 4, shall appear in the same field of vision.

This requirement may be extended to the particulars provided for in Article 4 (2).

(b) However, for glass bottles intended for re-use, upon which one of the particulars listed in point (a) is indelibly marked, this requirement shall not apply for a period of 10 years following notification of this Directive.

4. Member States may:

(a) permit that only the particulars listed in Article 3 (1), points 1, 3 and 4, be indicated on packaging or containers the largest surface of which has an area of less than 10 cm<sup>2</sup>,

(b) require the indication of only some of the particulars listed in Article 3 in respect of milk or milk products in bottles intended for re-use; in this case they may also provide for derogations from paragraph 3 (a).

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

*Article 12*

Where foodstuffs are offered for sale to the ultimate consumer without prepackaging, or where foodstuffs are packaged on the sales premises at the consumer's request or prepackaged for direct sale, the Member States shall adopt detailed rules concerning the manner in which the particulars specified in Article 3 and Article 4 (2) are to be shown.

They may decide not to require the provision of all or some of these particulars, provided that the consumer still receives sufficient information.

*Article 13*

This Directive shall not affect the provisions of national laws which, in the absence of Community provisions, impose less stringent requirements for the labelling of foodstuffs presented in fancy packaging such as figurines or souvenirs.

*Article 14*

Member States shall refrain from laying down requirements more detailed than those already contained in Articles 3 to 11 concerning the manner in which the particulars provided for in Article 3 and Article 4 (2) are to be shown.

The Member States shall, however, ensure that the sale of foodstuffs within their own territories is prohibited if the particulars provided in Article 3 and Article 4 (2) do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.

*Article 15*

1. Member States may not forbid trade in foodstuffs which comply with the rules laid down in this Directive by the application of non-harmonized national provisions governing the labelling and presentation of certain foodstuffs or of foodstuffs in general.

2. Paragraph 1 shall not apply to non-harmonized national provisions justified on grounds of:

- protection of public health,
- prevention of fraud, unless such provisions are liable to impede the application of the definitions and rules laid down by this Directive,
- protection of industrial and commercial property rights, indications of provenance, registered designations of origin and prevention of unfair competition.

*Article 16*

Where reference is made to this Article, the following procedure shall apply:

- (1) When a Member State maintains the provisions of its national laws, it shall inform the Commission and the other Member States thereof within a period of two years after notification of this Directive;
- (2) Should a Member State deem it necessary to adopt new legislation, it shall notify the Commission and the other Member States of the measures envisaged and give the reasons justifying them. The Commission shall consult the Member States within the Standing Committee on Foodstuffs if it considers such consultation to be useful or if a Member State so requests.

Member States may take such envisaged measures only three months after such notification and provided that the Commission's opinion is not negative.

In the latter event, and before the expiry of the abovementioned period, the Commission shall initiate the procedure provided for in Article 17 in order to determine whether the envisaged measures may be implemented subject, if necessary, to the appropriate modifications.

*Article 17*

1. Where the procedure laid down in this Article is invoked, the matter shall be referred to the Standing Committee on Foodstuffs (hereinafter called 'the Committee') by its chairman, either on his own initiative or at the request of a representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on that draft within a time limit set by the chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 41 votes, the votes of

the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) Where the measures envisaged are in accordance with the opinion of the Committee, the Commission shall adopt them.
- (b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.
- (c) If the Council has not acted within three months of the proposal being submitted to it, the proposed measures shall be adopted by the Commission.

#### Article 18

Article 17 shall apply for 18 months from the date on which the matter was first referred to the Committee pursuant to Article 17.

#### Article 19

If temporary measures prove necessary to facilitate the application of this Directive, they shall be adopted in accordance with the procedure provided for in Article 17.

#### Article 20

This Directive shall not affect Community provisions relating to the labelling and presentation of certain foodstuffs already adopted at the time of its notification.

Any amendments necessary to harmonize such provisions with the rules laid down in this Directive shall be decided in accordance with the procedure applicable to each of the provisions in question.

#### Article 21

This Directive shall not apply to products for export outside the Community.

#### Article 22

1. Member States shall make such amendments to their laws as may be necessary to comply with the provisions of this Directive and shall forthwith inform the Commission thereof; the laws thus amended shall be applied in such a way as to:

- permit trade in those products which comply with the provisions of this Directive no later than two years after its notification,
- prohibit trade in those products which do not comply with the provisions of this Directive four years after its notification.

2. However, Member States may:

- (a) in the case of certain foodstuffs, reduce the period specified in the second indent of paragraph 1;
- (b) in the case of certain foodstuffs which keep for a long time, extend the period specified in the second indent of paragraph 1;
- (c) without prejudice to the first indent of Article 23 (1) (b), in the case of foodstuffs which will keep for more than 12 months, extend to six years the period laid down in the second indent of paragraph 1 above as regards the obligation to indicate the date of minimum durability.

3. In the case referred to:

- (a) in paragraph 2 (a), the procedure laid down in Article 16 (2) shall apply to any national provision;
- (b) in paragraph 2 (b) and (c), Member States shall inform the Commission and the other Member States of any measure taken pursuant to the said points.

4. Member States shall also ensure that the Commission receives the text of any essential provision of national law which they adopt in the field governed by this Directive.

#### Article 23

1. By way of derogation from the second indent of Article 22 (1), Member States may make implementation of the provisions relating to the following matters optional:

- (a) the designation, provided for in the second indent of Article 6 (5) (b), of the specific name or EEC number of the ingredients belonging to one of the categories listed in Annex II;

(b) the indication provided for in Article 9, of the date of minimum durability in the case of:

- foodstuffs whose minimum durability exceeds 18 months,
- deep-frozen foodstuffs,
- ice-creams,
- chewing gums and similar chewing products,
- fermented cheese intended to ripen completely or partially in prepackaging;

(c) the information provided for in Annex I to supplement the designation 'oil' or 'fat'.

2. Without prejudice to the information provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to paragraph 1.

3. After a period of five years following notification of this Directive, the Council shall, in accordance with the procedure laid down in Article 100 of the Treaty, decide upon the common rules to apply in the cases referred to in paragraph 1.

*Article 24*

This Directive shall also apply to the French overseas departments.

*Article 25*

This Directive shall not apply to foodstuffs marketed in Greenland, intended for local consumption.

*Article 26*

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1978.

*For the Council*  
*The President*  
J. ERTL

ANNEX I

Categories of ingredients which may be designated by the name of the category rather than the specific name

<i>Definition</i>	<i>Designation</i>
Refined oils other than olive oil.	'Oil', together with — either the adjective 'vegetable' or 'animal', as appropriate, or — an indication of their specific vegetable or animal origin.  The adjective 'hydrogenated' must accompany the indication of a hydrogenated oil where the vegetable origin or the specific vegetable or animal origin is mentioned.  However, in either case, Member States may lay down requirements which are more stringent in the case of foodstuffs consisting essentially of oils and fats, emulsified sauces or preparations where the oil serves as a liquid medium; in that case the procedure laid down in Article 16 shall apply.
Refined fats.	'Fat', together with — either the adjective 'vegetable' or 'animal', as appropriate, or — an indication of their specific vegetable or animal origin.  However, in either case, Member States may lay down requirements which are more stringent in the case of foodstuffs consisting essentially of oils and fats or emulsified sauces; in that case the procedure laid down in Article 16 shall apply.
Mixtures of flour obtained from two or more cereal species.	'Flour', followed by a list of the cereals from which it has been obtained in descending order by weight.
Starches, and starches modified by physical or enzymatic means.	Starch.
All species of fish where the fish constitutes an ingredient of another foodstuff and provided that the name and presentation of such foodstuff does not refer to a specific species of fish.	Fish.
All types of poultrymeat where such meat constitutes an ingredient of another foodstuff and provided that the name and presentation of such a foodstuff does not refer to a specific type of poultrymeat.	Poultrymeat.
All types of cheese where the cheese or mixture of cheeses constitutes an ingredient of another foodstuff and provided that the name and presentation of such foodstuff does not refer to a specific type of cheese.	Cheese.

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<i>Definition</i>	<i>Designation</i>
All spices and spice extracts not exceeding 2 % by weight of the foodstuff.	Spice(s) or mixed spices.
All herbs or parts of herbs not exceeding 2 % by weight of the foodstuff.	Herb(s) or mixed herbs.
All types of gum preparations used in the manufacture of gum base for chewing gum.	Gum base.
All types of crumbed baked cereal products.	Crumbs or rusks as appropriate.
All types of sucrose.	Sugar.
Anhydrous dextrose and dextrose monohydrate.	Dextrose.
All types of caseinates.	Caseinates.
Press, expeller or refined cocoa butter.	Cocoa butter.
All crystallized fruit not exceeding 10 % of the weight of the foodstuff.	Crystallized fruit.

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ANNEX II

Categories of ingredients which must be designated by the name of the category to which they belong, followed by their specific name or EEC number

Colour  
Preservative  
Antioxidant  
Emulsifier  
Thickener  
Gelling agent  
Stabilizer  
Flavour enhancer  
Acid  
Acidity regulator  
Anticaking agent  
Modified starches <sup>(1)</sup>  
Artificial sweetener  
Raising agent  
Antifoaming agent  
Glazing agent  
Emulsifying salts <sup>(2)</sup>  
Flour improvers

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<sup>(1)</sup> Indication of specific name or EEC number is not required.  
<sup>(2)</sup> Only for processed cheeses and processed cheese products.