Opinion on the amended proposal for a Council Directive on the approximation of the laws of the Member States relating to fruit jams, jellies and marmalades, and chestnut purée

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 202 of 4 September 1975, page 2.

A. LEGAL BASIS FOR THE OPINION

On 27 August 1975, the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Articles 47 and 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 137th plenary session, held in Brussels on 25 and 26 February 1976.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the request for an opinion made by the Council of the European Communities on 27 August 1975,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 47 and 100 thereof,

Having regard to the decision taken by its Bureau on 23 September 1975, instructing the Section for Agriculture to draw up an opinion on the matter,

Having regard to its previous work on the matter, and in particular its opinion of 28 September 1966 [1],

Having regard to the report, submitted by the rapporteur, Mr Bourel,

Having regard to the opinion issued by the Section for Agriculture at its meeting on 5 February 1976,

Having regard to the discussions at its 137th plenary session, held on 25 and 26 February 1976 (meeting of 25 February 1976),

HAS ADOPTED THE FOLLOWING OPINION

with no votes against and two abstentions:

The Committee approves the Commission's amended proposal, subject to the following comments:

1. General comments

1.1. *Content and form of the new proposal*

1.1.1. On 28 September 1966, the Committee unanimously adopted an opinion on the first proposed Directive on jams. This means that it has taken nearly 10 years for an amended proposal to be submitted to the Council. With this sort of time lag, there will be no progress towards free movement for food products within the EEC. It is absolutely essential that the Council of the European Communities show a real political will to put an end to the procrastination which up to now has marked attempts to align food legislation.

1.1.2. But awkward problems were raised by the accession of the three new Member States, as

[1] OJ No 63, 3. 4. 1967, p. 986/67.

manufacturing practices and consumer habits there were often different from those in the original Six.

1.1.3. The proposal has been amended to take account of present consumption patterns. Seven jam-type products, which are assigned prescribed designations, are to comply with standardized rules on labelling and manufacture. But, since other products are not affected, alignment in this field will be partial.

1.1.4. For reasons of principle, the Economic and Social Committee has always come out in favour of 'total harmonization', particularly in the food sector, since it believes that this form of alignment is the only one that meets the basic need to protect consumers and at the same time ensures equal conditions of competition for Community producers.

However, the Committee can accept the present proposal of partial alignment if: (a) total alignment is the ultimate objective to be achieved after a specific period of time; and (b) the following conditions are met:

— the seven types of product covered by the proposal must include those which are most widely consumed in the Member States, so that only a small number of products remain covered by national laws alone. When new products are put on the EEC market, further categories (with their own prescribed designation and manufacturing rules) should promptly be created for them,

— products which do not fall into the present seven categories will in any case be covered by general rules, such as those laid down in the Directive being drawn up on food labelling, and in the draft Directive on dietary foods,

— the rules covering each of the present seven categories must be completely aligned, otherwise it would be better to give up all alignment attempts in this field.

1.1.5. Articles 2 (2), 9 and 13 (1) provide for exceptions to this principle. This is regrettable, even though the Committee is aware of the difficulties existing in certain Member States. It is suggested that exceptions should only apply to these States and for a specified period.

1.2. *Applying the proposed Directive to other food products*

1.2.1. It is our general view that when one of the seven products is merely an ingredient (filling, decoration, etc.) of another food product, it should not be compulsory to use the designation prescribed in the Directive. But if the designation is used, the ingredient in question must comply with the rules governing the product.

1.2.2. However, certain usages have become accepted in certain Member States. In the English-speaking world, for instance, the term 'jelly' is often used (alone or with other terms) for ingredients in other foods. The consumer, however, knows what is meant.

1.2.3. The above cases should be defined and regulated clearly in the proposed Directive.

1.3. *Links between this proposal for a Directive and other Directives either in the process of being prepared or to be issued at some future date*

In connection with various points already mentioned (1.1.4 and 1.2) and other important questions — in particular labelling — the Committee observes that if the proposal under discussion is to be clearly understood and above all properly applied, there must be other Directives on the following subjects: dietetic foods, products of the biscuit and flour confectionery industries, confectionery and, especially, a Directive on food labelling covering wording, pictures and general presentation.

The Committee points out that it has just unanimously adopted an opinion on the revised list of colouring matters. It expressed the view therein that care should be taken that ADI's (acceptable daily intakes) are not exceeded. This means that every foodstuff must be examined from this particular angle.

The Committee wishes to emphasize that such Directives are important and urgently needed.

Without them it is not going to be possible to guarantee consumers effective application of the present Directive. Nor will it be possible to ensure that producers in the Community enjoy equal conditions of competition.

1.4. *Translation problems*

The Committee would draw the Commission's attention to the fact that the texts in the different languages will have to be rigorously checked with the assistance of experts on the products in question. In such a specialist field as this, faulty terminology can lead to serious problems of interpretation.

2. **Specific comments**

Citations

In the Committee's view, reference to Treaty Article 43 alone is not enough. As the proposed Directive involves the approximation of national laws, the Committee asks that express reference be made to Treaty Article 100.

Article 1

The Committee would draw the Commission's attention to the fact that the names of the seven categories of jams, etc. in the various languages should be re-examined and aligned. It is important, however, to make sure that the names adopted following this re-examination apply to products corresponding to the definitions in Appendix I. For example, it would be necessary to make certain that the term 'preserve' which is current in the United Kingdom, applies to products covered by the term 'jam' as used in this Article.

Article 2 (2)

The Committee cannot endorse this paragraph in view of the fact that it permits Member States to restrict the sale of products listed in Article 1.

Confusion is bound to result from the imposition of uniform requirements on: (a) 'jams' of the types consumed in eight of the EEC Member States and having a soluble dry-matter-content of 61% or more; and (b) 'jams' with a lower sugar content (minimum content of soluble dry matter 30%). (The latter account for the bulk of the Danish 'jams' market.) There is a certain demand for such low-sugar jams from consumers in other Member States but there is insufficient evidence to assess how harmonized laws on such products should best be drafted in order to enable this demand to be met.

The Committee therefore recommends that:

— Article 2 should be reviewed to ensure free trade in products listed in Article 1 (1) and having a minimum soluble dry matter content of 61%,

— the Commission should closely monitor the trend in jams with a soluble dry matter content of less than 61%; it should, as soon as there are sufficient grounds for doing so, propose a supplementary Directive governing designations, composition, labelling, and the maximum quantities of preservatives that may be used. As it is inevitable that large quantities of preservative will have to be used in jams with a low sugar content, the Committee insists that it be made compulsory for mention to be made on the container of the types of additives used and the percentage which they make up of the product offered to consumers.

Article 6 (1)

The Committee would like the requirement to state the number of types of fruit used to be dropped from paragraph 1 (b), since the types of fruit have to be indicated in any case. It notes that other particular designations may come under the definition of 'first-quality jam', for instance 'four red fruits', and considers that there should be an Article listing such designations, which could then be retained in the different Member States.

The Committee also asks that the term 'mixed fruit' should appear on the label when there are three or more types of fruit.

Paragraph 1 (c) should be deleted.

Article 6 (2)

The Committee notes that in view of the lack of completely reliable checks a difficult problem is posed by mentioning both fruit and sugar content on the label.

One might imagine that the simplest solution would be to check the percentage of sugar present, but this varies according to the quantity of fruit used.

The Committee therefore stresses the absolute necessity of encouraging attempts to develop satisfactory checking methods. Without these, the indications on labels could turn out to be a bogus form of consumer protection.

As things stand at present, the Committee considers that the least unsatisfactory solution would be to indicate on the label the quantity of fruit used in manufacture.

Consequently, the second line of this paragraph should read:

'expressed as a percentage of the weight of fruit used in relation to the finished product ...'

For the sake of greater clarity, however, the Committee suggests that these provisions should be replaced by the following: '... grams of fruit per ... grams of finished product', or something similar. The Committee is aware that with this sort of solution, it is still very difficult to check imported products.

Article 6 (5)

The Committee regrets that the Community has still not been able to adopt a common approach to indicating on labels the additives used in the products in question. It calls for the work in this area to be speeded up.

Article 6 (6)

The net weight of the product should be given even if it is less than 100 g. The latter half of the paragraph should therefore be amended accordingly.

Done at Brussels, 25 February 1976.

Article 9

The Committee once more draws attention to the fact that this Article is not conducive to the free movement of the products in question and refers back to 'General comments (1.3)'. It would like the Member States to harmonize the provisions in this field as soon as possible with the aim of providing consumers with clearer information on the products which are offered for sale.

Article 11

The Committee emphasizes the need to have common methods of analysis as soon as possible; here use should in particular be made of the work already done at international level.

Article 13

The Committee asks that this Article be reviewed in the light of the comments made on Article 2 (2).

Article 14 (b)

The Committee refers back to item 1.3 of 'General comments'.

Article 15

In the French text of paragraph 2, the words 'veillent en outre à communiquer' should be replaced by 'communiquent'. (The only change involved in the English text would be deletion of the word 'Furthermore').

In addition, the word 'main' should be deleted, since the Commission ought to receive all necessary information from the Member States.

Appendices

The Committee refers to the comments made in the Report of its Section for Agriculture.

The Chairman
of the Economic and Social Committee
Henri CANONGE

ANNEX

to the opinion of the Economic and Social Committee

The following amendments were rejected during the discussions:

Item 1.1.4

Insert the following new paragraph after the present first paragraph:

'Of course, this must on no account mean that from now on, in all languages of the Member States bar one, the word "marmalade" must be used exclusively for one specific type of product, as has been the case so far in only one other Member State. Such drastic and authoritarian interference in the traditions of the majority of the population in order to prevent consumers from being misled is neither necessary nor likely to win people's minds over to European unification.'

Reason

Traditionally, consumer habits and the law in various Member States distinguish between jams and marmalades. If both products have to be offered as 'jams', consumers will probably pay too much for the 'marmalade' products.

Voting

For: 8, against: 18, abstentions: 8.

Article 9

This paragraph in the opinion should be deleted.

Reason

It is not enough merely to ensure the free movement of goods. Consideration must also be given to protecting consumers and providing them with information. In some Member States, considerable progress has been made towards achieving these two goals. It appears that not all of the Governments of the Member States are in favour of this degree of consumer protection and information. Consumer protection should, however, as a matter of principle, be harmonized at the highest possible level. This should in no way jeopardize the achievement of the desired progress.

Voting

Rejected by a unanimous vote.

The following paragraphs were deleted from the section opinion following the adoption of amendments during the discussions.

Article 2 (2)

The section cannot endorse this paragraph in view of the fact that it permits Member States to restrict the movement of the products listed in Article 1.

Confusion is bound to result from the imposition of uniform requirements on: (a) 'jams' of the types consumed in eight of the EEC Member States and having a soluble dry matter content higher than 61%; and (b) 'jams' with a low sugar content (minimum content of soluble dry matter 30%, average content about 50%). At the present time 'jams' in the latter category are manufactured above all in Denmark, but there is a certain demand for them among consumers in other countries.

The section would therefore like Article 2 to be reviewed with two objectives in mind:

(a) guaranteeing free movement for the products currently listed in Article 1 and having a soluble dry matter content of 61% or more;

(b) laying down specific rules for jams with a soluble dry matter content of less than 61%; such rules should include: (a) designations; and (b) provisions governing composition and labelling, and the possible authorization of additives.

The section therefore asks that an additional category be created, covering 'jams with a low sugar content', and looks to the Commission to submit proposals on this matter.

Opinion on the proposal for a Directive concerning the Community list of less-favoured farming areas within the meaning of Directive 75/268/EEC (French overseas departments)

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 44 of 26 February 1976, page 5.

A. LEGAL BASIS FOR THE OPINION

On 21 January 1976, the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Articles 47 and 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 137th plenary session, held in Brussels on 25 and 26 February 1976.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the request for an opinion made by the Council of the European Communities on 21 January 1976,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 47 and 198 thereof,

Having regard to the decision taken by its chairman, under Articles 46 and 47 of the Rules of