II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) 2020/351

of 28 February 2020

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of citric acid (E 330) in cocoa and chocolate products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ([1]), and in particular Article 10(3) thereof,

Whereas:

(1) Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in food and their conditions of use.

(2) That list may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008 of the European Parliament and of the Council ([2]), either on the initiative of the Commission or following an application.

(3) Pursuant to Annex II to Regulation (EC) No 1333/2008, citric acid (E 330) is an authorised food additive in food category 05.1 'Cocoa and Chocolate products as covered by Directive 2000/36/EC' at a maximum level of 5 000 mg/kg.

(4) On 6 March 2018, an application was submitted for the modification of the conditions of use of citric acid (E 330) contained in food category 05.1 'Cocoa and Chocolate products as covered by Directive 2000/36/EC', by increasing its maximum level of use to 10 000 mg/kg for milk chocolate. The application was subsequently made available to the Member States pursuant to Article 4 of Regulation (EC) No 1331/2008.

(5) Citric acid (E 330), when used as a stabiliser in cocoa mass containing high levels of polyphenols, lowers pH and reacts with a part of polyphenols intensifying cocoa mass colour into characteristic pink shades accompanied by a berry-fruit sour taste. Both, pink shades and a berry-fruit sour taste are still apparent in the final product, i.e. in chocolate. The application shows that, the currently authorised maximum level of 5 000 mg/kg is not sufficient to obtain the desired pink shades and a berry-fruit sour taste, which is achievable with the maximum level of 10 000 mg/kg. As for the reaction between citric acid (E 330) and polyphenols, a constant ratio of citric acid (E 330) relative to cocoa mass is needed, thus the higher use level of citric acid (E 330) implies an increase in total dry cocoa solids in the final product. This final product would therefore comply with the definition of milk chocolate as laid down in Annex I to Directive 2000/36/EC of the European Parliament and of the Council ([3]).

([1]) OJ L 354, 31.12.2008, p. 16.

([2]) Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1).

([3]) 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 (OJ L 197, 3.8.2000, p. 19).

(6) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission has to seek the opinion of the European Food Safety Authority in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where the update in question is not liable to have an effect on human health.

(7) The safety of citric acid (E 330) was evaluated in 1990 by the Scientific Committee for Food, which established its acceptable daily intake as 'not specified' ([4]). The term 'not specified' is used when, on the basis of the available toxicological, biochemical and clinical data, the total daily intake of the substance, arising from its natural occurrence and its present use or uses in food at the levels necessary to achieve the desired technological effect, will not present a hazard to health.

(8) Citric acid (E 330) is a food additive authorised in a variety of foods in accordance with Annex II to Regulation (EC) No 1333/2008. It is not expected that the increase of its maximum level to 10 000 mg/kg for milk chocolate will have a significant impact on the overall exposure.

(9) Since the authorisation of the use of citric acid (E 330) in milk chocolate at 10 000 mg/kg requires an update of the Union list which is not liable to have an effect on human health, it is not necessary to seek the opinion of the Authority.

(10) Therefore, it is appropriate to authorise the use of citric acid (E 330) in milk chocolate at 10 000 mg/kg.

(11) Annex II to Regulation (EC) No 1333/2008 should therefore be amended accordingly.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 1333/2008 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 February 2020.

For the Commission
The President
Ursula VON DER LEYEN

([4]) Reports of the Scientific Committee for Food, Twenty-fifth series, 1991, p. 13 (https://ec.europa.eu/food/sites/food/files/safety/docs/sci-com_scf_reports_25.pdf).

ANNEX

In Part E of Annex II to Regulation (EC) No 1333/2008, in food category 05.1 'Cocoa and Chocolate products as covered by Directive 2000/36/EC', the following new entry is inserted after the entry for E 330:

	'E 330	Citric acid	10 000		only milk chocolate'