

standardisation schemes remained widely divergent. Since EC standards were adopted under Article 100 of the EEC Treaty requiring unanimity by the EC Council, little room for compromise existed. (The unanimity requirement has since been removed by the addition of Article 100A to the EEC Treaty by the Single European Act.) So, few standards were actually developed.

### 'New approach'

In 1985, the Council decided on a 'new approach' to adopting EC standards.<sup>4</sup> Under the new approach the EC provides only general standards and relies on the Member States to continue with the detailed regulations not already in the 'acquis communautaire'.<sup>5</sup> Products meeting the standards of the country of production must be accepted in other Member States. Therefore, no technical barriers to trade now exist. This type of approach was first articulated in the well-known European Court of Justice Decision of *Cassis de Dijon*.<sup>6</sup> The EC will continue, however, to develop detailed vertical standards. The immediate absence of such standards is no longer a threat to the completion of the 1992 Common Market programme. In fact the new approach was undertaken to make 1992 possible.

### Types of standards

Analytically, standards can be divided into three easily understood, although not always exclusive, categories: interchangeability standards, safety standards, and quality standards. The logic of standards ensuring interchangeability is irrefutable. What good is a monkey wrench set for inches in the repair of a machine with bolts set for centimetres? Safety standards must also be uniform, mainly to ensure fair competition: If a safety standard were appreciably lower in one Member State, that state's product would have a price advantage for no other reason than having to comply with a lower standard.

Quality standards are more complex and are the subject of the article. Quality standards can be divided into

two types: informational and substantive. Informational standards usually take the form of labelling requirements. Substantive standards consist mainly of compositional requirements. Some information regulations go beyond the mere requirement of supplying information, and further protect the consumer by making labelling easier to understand. A requirement that a food be sold only in certain specified quantities is an example of such a regulation.

## Standards Governing a Particular Product: Chocolate

### EC standards

Chocolate products are one of the few products governed by detailed vertical and horizontal regulations. Thus an examination of these regulations presents a good picture of how the EC broader product market will look in the future and the philosophy behind EC regulations. A 1973 Directive defines the standards for chocolate products, pre-empting Member State regulations.<sup>7</sup> Before calling a product by a specific name, minimal compositional requirements must be met. Minimal purity requirements are set out as well, and sampling methods are also prescribed. The language of the Directive is relatively plain and simple and contains only 20 articles. 'Annex 1' defines the many cocoa products: for example, cocoa nib, cocoa mass, cocoa press cake, vermicelli chocolate and milk chocolate are all defined. Several of the many amendments refine these definitions by stating the various categories in various languages. Apparently such provisions were needed since some products are known by several names in some languages and some products are commonly sold only in one Member State.

Besides this regulation, several horizontal regulations apply to the sale of chocolate. A 1977 Directive details labelling, presentation, and advertising requirements for all foodstuffs, including chocolate products.<sup>8</sup> This Directive focuses on providing transparency to the consumer concerning product composition and characteristics. The Directive first prescribes exactly when a particular characteristic may be attributable to a foodstuff such as composition, nature, durability, origin or

4 Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards, OJ 1985 C136/1.

5 Commission Communication of 8 November 1985 on the Completion of the Internal Market: Community Legislation on Foodstuffs, COM (85) 603 final, at 14 to 19 (hereinafter *Legislation on Foodstuffs*). 'Acquis communautaire' means an area of regulation entered by the EC so that Member States' regulations in that area are pre-empted.

6 Case 120/78, *Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein* [1979] ECR 649, [1979] 26 CMLR 494 (hereinafter *Cassis de Dijon*) and Article 36 of the EEC Treaty provide some limited exceptions to the principle of mutual recognition.

7 Council Directive 73/241, OJ 1973 L228/23 as amended by 74/411, OJ 1974 L221/17; 74/644, OJ 1974 L349/63; 75/155, OJ 1975 L64/21; 76/628, OJ 1976 L223/1; 76/609, OJ 1978 L197/10; 78/842, OJ 1978 L291/15; 80/708, OJ 1980 L170/33; 85/7, OJ 1985 L002/22; and 89/344, OJ 1989 L142/19; (hereinafter *Chocolate Directive*).

8 Council Directive 79/112, OJ 1979 L033 as amended by 85/7, OJ 1985 L005/22; 86/197, OJ 1986 L144/38; 89/395, OJ 1989 L042/27; (hereinafter *Labelling Directive*).