

COMMON POSITION (EC) No 46/2000**adopted by the Council on 31 July 2000**

**with a view to adopting Directive 2000/.../EC of the European Parliament and of the Council of ...
on the approximation of the laws, regulations and administrative provisions of the Member
States concerning the manufacture, presentation and sale of tobacco products**

(2000/C 300/05)

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⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾,

Whereas:

- (1) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use⁽⁵⁾ was amended substantially by Council Directive 92/41/EEC⁽⁶⁾. Since further amendments are to be made to that Directive, as well as to Council Directive 90/239/EEC of 17 May 1990 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum tar yield of cigarettes⁽⁷⁾, those Directives should be recast in the interests of clarity.
- (2) There are still substantial differences between the Member States' laws, regulations and administrative provisions on the manufacture, presentation, and sale of

tobacco products which impede the functioning of the internal market.

- (3) Those barriers should be eliminated and, to this end, the rules relating to the manufacture, presentation and sale of tobacco products should be approximated, while leaving Member States the possibility of introducing, under certain conditions, such requirements as they consider necessary in order to guarantee the protection of the health of individuals.
- (4) In accordance with Article 95(3) of the Treaty, a high level of protection in terms of health, safety, environmental protection and consumer protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts; in view of the particularly harmful effects of tobacco, health protection should be given priority in this context.
- (5) Directive 90/239/EEC established maximum limits for the tar yield of cigarettes marketed in the Member States with effect from 31 December 1992. The carcinogenic nature of tar makes it necessary to reduce further the levels of tar in cigarettes.
- (6) Directive 89/622/EEC established a general warning to be carried on the unit packaging of all tobacco products, together with additional warnings exclusively for cigarettes and, from 1992, extended the requirement for additional warnings to other tobacco products.
- (7) Differences in rules concerning carbon monoxide are liable to constitute barriers to trade and to impede the smooth operation of the internal market. In addition, cigarettes have been shown to produce amounts of carbon monoxide which are hazardous to human health and capable of contributing to heart disease and other ailments.

⁽¹⁾ OJ C 150 E, 30.5.2000, p. 43.

⁽²⁾ OJ C 140, 18.5.2000, p. 24.

⁽³⁾ OJ C 226, 8.8.2000, p. 5.

⁽⁴⁾ Opinion of the European Parliament of ... (not yet published in the Official Journal), Council Common Position of 31 July 2000 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁵⁾ OJ L 359, 8.12.1989, p. 1.

⁽⁶⁾ OJ L 158, 11.6.1992, p. 30.

⁽⁷⁾ OJ L 137, 30.5.1990, p. 36.

- (8) There are differences between the laws, regulations and administrative provisions of the Member States on the limitation of the maximum nicotine yield of cigarettes. Such differences are liable to constitute barriers to trade and to impede the smooth operation of the internal market. Member States and scientific authorities have raised specific problems of public health in a field which has already been the subject of prior harmonisation measures, which the Commission has examined.
- (9) Those obstacles should accordingly be eliminated and to that end the release for free circulation, marketing and manufacture of cigarettes should be made subject to common rules not only concerning tar but also concerning maximum nicotine and carbon monoxide levels.
- (10) Internationally applicable standards for tobacco products are one of the subjects of the negotiations for the drafting of a World Health Organisation Framework Convention on Tobacco Control.
- (11) For measuring the tar, nicotine and carbon monoxide yields of cigarettes, reference should be made to ISO standards 4387, 10315 and 8454, which are the only internationally recognised standards, it being understood that subsequent research and technological progress to be promoted should make it possible to develop and use more precise and reliable measurement methods for cigarette yields and to develop measurement methods for the other tobacco products.
- (12) In Directive 90/239/EEC, in view of particular socio-economic problems, Greece was granted a derogation from the time limits for the implementation of maximum tar yields. That derogation should be maintained for the period stipulated.
- (13) The presentation of warning labels and yields has continued to remain variable in the different Member States. As a consequence, consumers in one Member State may be better informed as to the risks of tobacco products than in another. Such differences are unacceptable and are liable to constitute a barrier to trade and to impede the operation of the internal market in tobacco products, and should therefore be eliminated. It is necessary to that end that the existing legislation be strengthened and clarified, while ensuring a high level of health protection.
- (14) Provision should be made for batches of tobacco products to be marked so that those products are traceable for the purposes of monitoring compliance with this Directive.
- (15) The situation varies in the different Member States regarding the ingredients and additives used in the manufacture of tobacco products. A number of Member States have neither existing legislation nor voluntary agreements in place on those substances. Several Member States in which such legislation or voluntary agreements exist receive no information from tobacco manufacturers on the quantities of such ingredients and additives present in particular tobacco products on a brand name by brand name basis. An approximation of the measures applicable in this field should be introduced, resulting in greater transparency.
- (16) The lack of information together with the lack of toxicological data prevent the relevant authorities in the Member States from assessing in any meaningful manner the toxicity of, and hazards posed to the health of the consumer by, tobacco products. This is inconsistent with the obligation placed on the Community to ensure a high level of protection for human health.
- (17) Tobacco products have been shown to contain and emit many noxious substances and known carcinogens hazardous to human health when burnt. In recent years it has also been shown that passive smoking is dangerous in particular to unborn children and infants and that it can cause or aggravate respiratory problems in persons inhaling smoke. Moreover, 80 % of new smokers in the Community are below the age of 18. The greatest possible transparency of product information should be ensured, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the tobacco manufacturers.
- (18) The use on the packaging of tobacco products of certain terms describing the product, which can mislead the consumer, should be prohibited.
- (19) Directive 89/622/EEC prohibited the sale in the Member States of certain types of tobacco for oral use. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden a derogation from the provisions of that Directive in this regard.
- (20) Technical and scientific progress in the field of tobacco products calls for regular re-evaluation of the provisions and the application of this Directive in Member States. To that end, provision should be made for a procedure for the Commission to draw up regular reports supported by scientific and technical data. Certain data ought to be examined with particular attention in this context.

- (21) In connection with the fixing of maximum yields, it ought to be considered whether, on the one hand, it is advisable at a later date to reduce the yields fixed and in particular how, if at all, they are connected and, on the other hand, whether standards on these matters should be developed for products other than cigarettes, in particular rolling tobacco.
- (22) As regards the other ingredients, including additives, it ought to be considered whether, with a view to subsequent harmonisation, it would be possible to draw up a common list.
- (23) The size of the internal market in tobacco products and the increasing tendency of tobacco manufacturers to concentrate production for the whole of the Community in only a small number of production plants within the Member States, calls for legislative action to achieve the smooth operation of the internal market in tobacco products to be carried out at Community rather than national level.
- (24) In applying this Directive, provision should be made for establishing time limits which allow, on the one hand, completion to a maximum degree of efficiency of the process of conversion already begun by Directive 90/239/EEC, and, on the other, consumers and manufacturers to adapt to products with a lower tar, nicotine and carbon monoxide yield.
- (25) 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⁾.
- (26) This Directive should be without prejudice to the time limits within which the Member States must transpose and apply the Directives set out in Annex II,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Aim

The aim of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the maximum tar, nicotine and carbon monoxide yields of cigarettes and the warnings regarding health and other information to appear on unit packets of tobacco products, together with certain measures concerning the ingredients and the descriptions of tobacco products.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

Definitions

For the purposes of this Directive:

1. 'tobacco products' means products for the purposes of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco, whether genetically modified or not;
2. 'tar' means the raw anhydrous nicotine-free condensate of smoke;
3. 'nicotine' means nicotinic alkaloids;
4. 'tobacco for oral use' means all products for oral use, except those intended to be smoked or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets, or in a form resembling a food product;
5. 'ingredient' means any substance or any constituent except for tobacco leaf and other natural or unprocessed tobacco plant parts used in the manufacture or preparation of a tobacco product and still present in the finished product, even if in altered form.

Article 3

Cigarettes: maximum tar, nicotine and carbon monoxide yields

1. From 1 January 2004, the yield of cigarettes released for free circulation, marketed or manufactured in the Member States shall not be greater than:
 - 10 mg per cigarette for tar,
 - 1 mg per cigarette for nicotine,
 - 10 mg per cigarette for carbon monoxide.
2. For the Hellenic Republic, as a temporary derogation, the date of application of the maximum tar yield of cigarettes manufactured and marketed within its territory, as referred to in paragraph 1, shall be 1 January 2007.

Article 4

Measurement methods

1. The tar, nicotine and carbon monoxide yields of cigarettes shall be measured on the basis of ISO standards 4387 for tar, 10315 for nicotine, and 8454 for carbon monoxide.

The accuracy of the tar and nicotine indications on packets shall be verified in accordance with ISO standard 8243.

2. The tests referred to in paragraph 1 shall be carried out or verified by testing laboratories which are approved and monitored by the competent authorities of the Member States.

Member States shall send the Commission a list of approved laboratories, specifying the criteria used for approval and the methods of monitoring applied, by 31 December 2001, and whenever any change is made.

3. Member States may also require tobacco manufacturers or importers to carry out any other tests as may be laid down by the competent national authorities in order to assess the yield of other substances produced by their tobacco products on a brand name-by-brand name basis and type-by-type basis and in order to assess the effects of those other substances on health, taking into account, *inter alia*, their addictiveness. Member States may also require that such tests be carried out or verified in approved testing laboratories as laid down in paragraph 2.

4. The results of tests carried out in accordance with paragraph 3 shall be reported annually to the competent national authorities.

Member States shall ensure the dissemination, by any appropriate means, of information submitted in accordance with this Article with a view to informing consumers and in so doing shall take account, where appropriate, of any information which constitutes a trade secret.

5. Each year Member States shall communicate all data and information submitted pursuant to this Article to the Commission, which shall take account thereof when drawing up the report referred to in Article 11.

Article 5

Labelling

1. The tar, nicotine and carbon monoxide yields of cigarettes measured in accordance with Article 4 shall be printed on one side of the cigarette packet in the official language or languages of the Member State where the product is placed on the market, so that at least 10 % of the corresponding surface is covered.

That percentage shall be raised to 12 % for Member States with two official languages and to 15 % for Member States with three official languages.

2. Each unit packet of tobacco products, except for tobacco for oral use and other smokeless tobacco products, must carry the following warnings:

(a) general warning:

'Smoking kills'

or

'Smoking can kill'.

That warning shall be printed on the most visible surface of the unit packet, and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product;

(b) an additional warning taken from the list set out in Annex I.

The additional warnings referred to above shall be rotated in such a way as to guarantee their regular appearance.

That warning shall be printed on the other most visible surface of the unit packet, and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product.

Member States may determine the positioning of the warnings on those surfaces in order to accommodate language requirements.

3. Tobacco products for oral use, where their marketing is permitted under Article 8, and smokeless tobacco products shall carry the following warning:

'This tobacco product can damage your health and is addictive'.

This warning shall be printed on the most visible surface of the unit packet and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product.

Member States may determine the positioning of the warning on that surface in order to accommodate language requirements.

4. The warnings referred to in paragraphs 2 and 3 shall cover respectively not less than 25 % of the external area of the corresponding surface of the unit packet on which they are printed. That proportion shall be increased to 27 % for Member States with two official languages and to 30 % for Member States with three official languages.

However, in the case of unit packets intended for products other than cigarettes the most visible surface of which exceeds 100 cm², the warnings referred to in paragraph 2 shall cover an area of at least 25 cm² on each surface. That area shall be increased to 27 cm² for Member States with two official languages and 30 cm² for Member States with three official languages.

5. The text of warnings and yield indications required under this Article shall be:

- (a) printed in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States shall have the right to determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;
- (b) in lower-case type, except for the first letter of the message and where required by grammar usage;
- (c) centred in the area in which the text is required to be printed, parallel to the top edge of the packet;
- (d) for products other than those referred to in paragraph 3, surrounded by a black border not less than 3 mm and not more than 4 mm in width which in no way interferes with the text of the warning or information given;
- (e) in the official language or languages of the Member State where the product is placed on the market.

6. The printing of the texts required by this Article on the tax stamps of unit packets shall be prohibited. The texts shall be irremovably and indelibly fixed and shall in no way be hidden, obscured or interrupted by other written or pictorial matter or by the opening of the packet.

7. Member States may stipulate that the warnings referred to in paragraphs 2 and 3 are to be accompanied by a reference, outside the box for warnings, to the issuing authority.

8. The batch number of the tobacco product allocated in accordance with ISO standard 8243 shall be indicated on each unit packet in any appropriate form that enables the origin of the product to be identified.

Article 6

Further product information

1. Member States shall require all manufacturers and importers of tobacco products to submit to them a list of all ingredients, and quantities thereof, used in the manufacture of their tobacco products by brand name and type. This list shall be accompanied by a statement setting out the reasons for the inclusion of such ingredients in their tobacco products, and by the toxicological data on these ingredients in burnt and unburnt form and their effects on health, taking into account, *inter alia*, their addictiveness.

The information referred to in the first subparagraph shall be provided on a yearly basis and for the first time by 31 December 2002 at the latest.

2. Member States shall ensure the dissemination of the information provided in accordance with this Article by any appropriate means, with a view to informing consumers, and in so doing shall take account, where appropriate, of any information which constitutes a trade secret.

3. Each year Member States shall communicate all data and information submitted pursuant to this Article to the Commission, which shall take account thereof when drawing up the report referred to in Article 11.

Article 7

Product descriptions

The use of the terms 'low tar', 'light', 'ultra light', 'mild' or any other similar terms, and without prejudice to the provisions of Article 5(1) all information on the yields, which have the aim or the direct or indirect effect of conveying the impression that a particular tobacco product is less harmful than others, shall be prohibited.

Article 8

Tobacco for oral use

Member States shall prohibit the placing on the market of tobacco for oral use, without prejudice to Article 151 of the Act of Accession of Austria, Finland and Sweden.

Article 9

Adaptations

The Commission shall, in accordance with the procedure laid down in Article 10(2), adapt to scientific and technical progress:

- (a) the measurement methods laid down in Article 4 and the definitions relating thereto;
- (b) the health warnings to be shown on unit packets of tobacco products as set out in Annex I and the frequency of rotation of the health warnings.

Article 10

Regulatory procedure

1. The Commission shall be assisted by a 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 referred to 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 11

Report

No later than 31 December 2004, and every two years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive.

With a view to drafting the report referred to in the first paragraph, the Commission shall be assisted by scientific and technical experts in order to have all the necessary information available.

On submission of the first report, the Commission shall indicate in particular the features which should be reviewed or developed in the light of developments in scientific and technical knowledge, including the development of internationally agreed rules and standards on products, and shall pay special heed to the subsequent reduction of the maximum yields laid down in Article 3(1), to the possible links between these yields, to the development of standards concerning products other than cigarettes, in particular rolling tobacco, and to the possibility of drawing up a common list of the ingredients referred to in Article 6, taking into account, *inter alia*, their addictiveness. The report shall also examine the links between the labelling requirements laid down in Article 5 and consumer behaviour. That report shall be accompanied by any proposals for amendments to this Directive which the Commission deems necessary.

Article 12

Import, sale and consumption of tobacco products

1. Member States may not, for considerations relating to the limitation of the tar, nicotine or carbon monoxide yields of cigarettes, to health warnings and other indications or to other requirements of this Directive, prohibit or restrict the import, sale or consumption of tobacco products which comply with this Directive, with the exception of measures taken for the purposes of verifying the data provided under Article 4.

2. This Directive shall not affect the right of Member States to keep or introduce, in accordance with the Treaty, more stringent rules concerning the manufacture, import, sale and consumption of tobacco products which they deem necessary in order to protect public health, in so far as such rules do not prejudice the rules laid down in this Directive.

Article 13

Implementation

1. Without prejudice to the first paragraph of Article 14, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2001 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, 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 Member States.

2. Products which do not comply with the provisions of this Directive may continue to be marketed for one year after the date referred to in paragraph 1.

3. Member States shall communicate to the Commission the text of the provisions of domestic law which they adopt in the field governed by this Directive.

Article 14

Repeal

Directives 89/622/EEC and 90/239/EEC are hereby repealed, without prejudice to the obligations of Member States concerning the time limits for transposition and application of the Directives listed in Annex II.

References to the Directives repealed shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

Article 15

Entry into force

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

Article 16

Addressees

This Directive is addressed to the Member States.

Done at ...

For the European Parliament

For the Council

The President

The President

ANNEX I

List of additional health warnings (referred to in Article 5(2)(b))

1. Smokers die younger.
 2. Smoking causes heart disease and strokes.
 3. Smoking causes cancer.
 4. Smoking when pregnant harms your baby.
 5. Protect children: don't make them breathe your smoke.
 6. Your doctor can help you to stop smoking.
 7. Smoking is addictive.
 8. Stopping smoking reduces the risk of serious disease.
 9. Get help to stop smoking: (telephone/postal address/internet address/your doctor).
 10. Smoking causes impotence.
 11. Smoking causes ageing of the skin.
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ANNEX II

Time limits for transposition and implementation of repealed Directives (referred to in Article 14)

Directive	Time limits for transposition	Time limits for application
89/622/EEC (OJ L 359, 8.12.1989, p. 1)	1 July 1990	31 December 1991 31 December 1992 31 December 1993
90/239/EEC (OJ L 137, 30.5.1990, p. 36)	18 November 1991	31 December 1992 ⁽¹⁾ 31 December 1997 ⁽¹⁾ 31 December 1992 ⁽²⁾ 31 December 1998 ⁽²⁾ 31 December 2000 ⁽²⁾ 31 December 2006 ⁽²⁾
92/41/EEC (OJ L 158, 11.6.1992, p. 30)	1 July 1992	1 July 1992 1 January 1994 31 December 1994

⁽¹⁾ For all the Member States except Greece.

⁽²⁾ Derogation applying to Greece only.

ANNEX III

Correlation table

This Directive	Directive 89/622/EEC as amended by Directive 92/41/EEC	Directive 90/239/EEC
Article 1	Article 1	Article 1
Article 2 points 1, 2 and 3	Article 2(1), (2) and (3)	Article 2(1)
Article 2, point 4	Article 2(4)	
Article 2, point 5		
Article 3(1)		Article 2(2)
Article 3(2)		Article 2(3)
Article 4(1) first subparagraph	Article 3(1)	Articles 3 and 4
Article 4(1) second subparagraph	Article 3(2)	
Article 4(2) to (5)		
Article 5(1)	Article 3(3)	
Article 5(2) first subparagraph	Article 4(1)	
Article 5(2) first subparagraph, (a)	Annex I	
Article 5(2) first subparagraph, (b)	Article 4(2a)(a)	
Article 5(2) second subparagraph		
Article 5(3)		
Article 5(4) first subparagraph	Article 4(4)	
Article 5(4) second subparagraph	Article 4(4)	
Article 5(5)		
Article 5(6)	Article 4(5)	
Article 5(7)		
Article 5(8)		
Article 6		
Article 7		
Article 8	Article 8(a)	
Article 9		
Article 10		
Article 11		
Article 12(1)	Article 8(1)	Article 7(1)
Article 12(2)	Article 8(2)	Article 7(2)
Article 13(1)	Article 9(1)	Article 8(1)
Article 13(2)	Article 9(2)	Article 8(2)
Article 13(3)	Article 9(1)	Article 8(3)
Article 14		

This Directive	Directive 89/622/EEC as amended by Directive 92/41/EEC	Directive 90/239/EEC
Article 15		
Article 16	Article 10	Article 9
Annex I	Annex I	
Annex II		
Annex III		

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 7 January 2000 the Commission forwarded to the Council a proposal for a Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products, based on Article 95 of the Treaty⁽¹⁾.
2. The European Parliament delivered its opinion on 14 June 2000⁽²⁾. The Economic and Social Committee delivered its opinion on the proposal on 29 March 2000⁽³⁾, and the Committee of the Regions did likewise on 12 April 2000⁽⁴⁾.
3. Following delivery of these opinions, on 28 June 2000 the Commission forwarded an amended proposal to the Council⁽⁵⁾.
4. On 31 July 2000, the Council agreed its Common Position in accordance with Article 251(2) of the Treaty.

II. OBJECTIVES

The Directive, which is based on Article 95 of the Treaty, recasts two Directives on the tar yield of cigarettes⁽⁶⁾ and on the labelling of tobacco products, including the prohibition of certain types of tobacco for oral use⁽⁷⁾. It is designed to supplement and update those provisions in the light of experience and scientific developments, and aims at a high level of public health protection.

III. ANALYSIS OF THE COMMON POSITION⁽⁸⁾

A. AMENDED COMMISSION PROPOSAL

The Council adopted, either wholly, partly, or retaining only the substance, 15 amendments proposed by the European Parliament which were taken up in the Commission proposal.

It also adopted two other amendments (40 and 41), which had initially been rejected by the Commission and which concern Article 7, reinforcing that Article by a reference to information on yields, as proposed by the Commission.

⁽¹⁾ OJ C 150, 30.5.2000, p. 43.

⁽²⁾ Doc. 9341/00 CODEC 434 SAN 55.

⁽³⁾ OJ C 140, 18.5.2000, p. 24.

⁽⁴⁾ OJ C 226, 8.8.2000, p. 5.

⁽⁵⁾ Doc. 10131/00 SAN 78 CODEC 526.

⁽⁶⁾ Directive 90/239/EEC (OJ L 137, 30.5.1990).

⁽⁷⁾ Directive 89/662/EEC, amended by Directive 92/41/EEC (OJ L 359, 8.12.1989 and OJ L 158, 11.6.1992).

⁽⁸⁾ The numbering of the recitals, Articles and Annexes follows that adopted in the Common Position.

B. AMENDMENTS ACCEPTED BY THE COMMISSION BUT NOT TAKEN UP IN THE COMMON POSITION

— *amendments 75, 11 and 15*

The Council considered that the reference to the price of tobacco products was not appropriate given the overall structure of the Directive, and the absence of provisions relating to price in the Articles,

— *amendment 3*

The Council did not consider that a specific reference to the evaluation of tobacco products designed to reduce risk was essential at this stage, since this was to be a priority for study in the first report required by Article 11,

— *amendments 5, 22 (second part) and 108*

The Council felt that at this stage it was important to concentrate on improving the accuracy and reliability of methods for measuring tar, nicotine and carbon monoxide yields, and also on investigating the possibility of drawing up a common list of other ingredients, with the question of measuring the latter being handled at a later stage,

— *amendment 6*

The Council considered that this exercise would be too difficult and costly,

— *amendment 12*

Although the Council did not believe it appropriate to highlight this aspect in a separate recital, none the less it did note the importance of improving the evaluation of the effects of tobacco products in connection with the need to ensure a high level of health protection (see recitals 4 and 16, for example),

— *amendment 13*

The Council considered it more appropriate to refer to the protection of commercial and intellectual property rights in relation to consumer information (see recital 17 and Articles 4(4) and 6(2)). It therefore deleted the specific recital to which the Parliament's amendment refers,

— *amendment 16*

The Council felt that the text of this recital was too general in relation to the enacting terms of the Directive, also given that action on factors determining health, including smoking, was one of the areas of activity in the new programme which the Commission had recently presented,

— *amendment 18*

The Council considered that its amended definition (see Article 2(5)), particularly with the addition of the general expression 'any component', made the proposed amendment superfluous,

— *amendments 19 and 98*

The Council felt that the possibility of an exemption, even a temporary one, for the application of the new provisions to cigarettes exported out of the Community was not justified, particularly given the problems of control which this exemption would have raised,

— *amendment 107*

The Council did not consider it appropriate to specify details such as those in this amendment (see also comment on Amendment 12),

— *amendment 24*

The Council felt that, particularly given the significant margin of error in test results, and while awaiting an improvement in their accuracy, annual disclosure of the results as stipulated in the first subparagraph of Article 4(4) would be both less costly and more reliable,

— *amendments 25 and 39*

With the wording of the second subparagraph of Article 4(4) and of Article 6(2), the Council wanted to underline the importance ascribed to consumer information by highlighting its overriding importance,

— *amendments 26 and 116*

The Council felt that the increase in dimensions requested by the Parliament, both for yield indications and for warnings to be included on the packaging, was excessive given that the percentages in Article 5(1) (10 %, 12 % and 15 % respectively) and Article 5(4) (25 %, 27 % and 30 %), which match the Commission's original proposal, were well over those stipulated in current legislation (4 %, 6 % and 8 %).

The Council did not incorporate the Commission's proposal that only the maximum authorised yields laid down in Article 3(1) should be printed on the packets, judging that it was important to inform consumers of the actual yields of cigarettes.

However, the Council explicitly stipulated that the connection between labelling and consumer behaviour should be examined in the first report required by Article 11.

— *amendment 29*

The Council did not regard it as essential to stipulate the details required by the amendment,

— *amendment 44*

Taking into consideration, among other factors, assurances given by the Commission as regards the creation of a working party of independent multidisciplinary experts, and as regards the priority to be given to drawing up a common approach on ingredients, the Council felt it appropriate for the drafting of the first report to give guidance more general than that contained in the amendment.

C. PRINCIPAL CHANGES INTRODUCED BY THE COUNCIL

Other than the changes referred to in Section B, the following new features were introduced.

Preamble

The Council amended the preamble in order to ensure better correspondence with the text of the enacting terms, by merging some recitals and deleting others, without substantially altering the contents.

Article 5 (labelling)

This Article was amended in order to improve its structure.

The Council also reintroduced a provision (see paragraph 7) taken from Directive 89/622/EEC by providing for the possibility of naming the body which issued the warning, while specifying that this should be stated outside the frame of the warning notice so as not to reduce its impact.

Annex I (additional warnings)

The Council introduced two additional warnings (10 and 11).
