

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 9 August 2011

on the compliance of standard EN 16156:2010 ‘Cigarettes — Assessment of the ignition propensity — Safety requirement’ and of standard EN ISO 12863:2010 ‘Standard test method for assessing the ignition propensity of cigarettes’ with the general safety requirement of Directive 2001/95/EC of the European Parliament and of the Council and publication of the references of standard EN 16156:2010 ‘Cigarettes — Assessment of the ignition propensity — Safety requirement’ and of standard EN ISO 12863:2010 ‘Standard test method for assessing the ignition propensity of cigarettes’ in the *Official Journal of the European Union*

(notified under document C(2011) 5626)

(Text with EEA relevance)

(2011/496/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety⁽¹⁾, and in particular the first subparagraph of Article 4(2) thereof,

After consulting the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services⁽²⁾,

Whereas:

(1) Article 3(1) of Directive 2001/95/EC obliges producers to place only safe products on the market.

(2) Under the second subparagraph of Article 3(2) of Directive 2001/95/EC, a product shall be presumed safe, as far as the risks and risk categories covered by the relevant national standards are concerned, when it conforms to voluntary national standards transposing European standards, the references of which have been published by the Commission in the *Official Journal of the European Union*, in accordance with Article 4(2) of the Directive.

(3) Pursuant to Article 4(1) of the Directive, European standards are established by European standardisation bodies under mandates drawn up by the Commission.

(4) Pursuant to Article 4(2), the Commission is to publish the references of such standards.

(5) In June 2008, the Commission issued Mandate M/425 to CEN (European Committee for Standardisation) to draft a European safety standard to address the fire risk of cigarettes.

(6) CEN adopted standard EN 16156:2010 ‘Cigarettes — Assessment of the ignition propensity — Safety requirement’ in response to the Commission’s mandate. That standard refers to standard EN ISO 12863:2010 ‘Standard test method for assessing the ignition propensity of cigarettes’. Therefore, reference should also be made to the EN ISO standard when publishing the reference to EN 16156:2010.

(7) EN ISO 12863:2010 was amended by a technical corrigendum⁽³⁾. The corrigendum was endorsed by CEN without any modification⁽⁴⁾ and thus included in standard EN 16156:2010.

(8) Standards EN 16156:2010 and EN ISO 12863:2010 fulfil Mandate M/425 and comply with the general safety requirement of Directive 2001/95/EC. Their references should be published in the *Official Journal of the European Union*.

(9) In order to ensure a successful introduction of the standards, industry should be given sufficient time to adapt their production to the safety level provided for in the standards. The publication of the references of the standards in the *Official Journal of the European Union* 12

⁽¹⁾ OJ L 11, 15.1.2002, p. 4.

⁽²⁾ OJ L 204, 21.7.1998, p. 37.

⁽³⁾ Technical corrigendum 1. Reference number ISO 12863:2010/Cor.1:2011(E).

⁽⁴⁾ Reference: EN ISO 12863:2010/AC:2011.

months after the standards were made available on 17 November 2010 by CEN is intended to ensure that thereafter in all Member States the presumption of fire safety would be based on common criteria. In order to ensure clarity and legal certainty on the internal market, market surveillance authorities in all Member States should take into account the European standards mentioned in recital 8 when assessing the fire safety of cigarettes, including at the stage of cigarette sales to consumers.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee set up under Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

Standard EN 16156:2010 'Cigarettes — Assessment of the ignition propensity — Safety requirement' and standard EN ISO 12863:2010 'Standard test method for assessing the

ignition propensity of cigarettes' meet the general safety requirement of Directive 2001/95/EC for the risk they cover.

Article 2

The references of standards EN 16156:2010 and EN ISO 12863:2010 shall be published in the C series of the *Official Journal of the European Union* on 17 November 2011.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 9 August 2011.

For the Commission

John DALLI

Member of the Commission
