



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.11.1995
COM(95) 552 final

95/0279 (COD)

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Directive

89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment (PPE)

(presented by the Commission)

Explanatory memorandumI General1. Purpose

This proposal for a Directive has been prepared on the basis of Article 100a of the Treaty.

It consists of an amendment to Council Directive 89/686/EEC¹ of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment, as amended by directives 93/68/EEC² and 93/95/EEC³. Its purpose is to simplify the administrative requirements imposed on the manufacturers of personal protective equipment (PPE) and in particular to repeal the obligation to indicate on every item of PPE the year in which the EC marking was affixed.

Since this proposal is an amendment to an act adopted by the Community, the Community has sole jurisdiction over it and it can be implemented only by means of an act of the same nature as the original document, namely a directive. This Directive will therefore have the same principles of implementation as the Directive which it amends.

¹ OJ No L 399, 30.12.1989, p. 18.

² OJ No L 220, 30.8.1993, p. 1.

³ OJ No L 276, 9.11.1993, p. 11.

This proposal thus answers to the desire for administrative simplification aimed at eliminating unnecessary and costly obligations from Community provisions.

2. Economic and social impact

Directive 89/686/EEC provides that the CE conformity marking consists of the letters "CE" followed by the last two digits of the year in which the marking was affixed and, in the event of the involvement of a notified body having carried out an EC type examination, its distinguishing number.

Directive 93/68/EEC amending 89/686/EEC on the one hand kept, as additional information with the CE marking, this indication of the last two digits of the year in which the marking was affixed (only PPE covered by a declaration of conformity by the manufacturer himself may be exempt) and, on the other hand, restricted indication of the identification number to only those notified bodies which become involved in the quality control phase mentioned in Article 11 of Directive 89/686/EEC.

PPE manufacturers have pointed out to the Commission that the obligation to indicate on every item of PPE the year in which the CE marking was affixed, i.e. in effect the year of manufacture of the PPE, was the source of considerable costs which are not justified by a substantial increase in safety or information for the user.

These costs are estimated by the manufacturers at about 5% of annual turnover, and arise in particular from:

- annual changes (on 1 January) to the marking systems or the moulds when marking is an integral part of the production process;
- keeping separate stocks of products, component parts, packaging materials and documentation for each of the annual production runs;
- the matching of products and packaging that has to be done at the end of the year;
- the depreciation of products marked in previous years;
- the possible costs of returning of "old" products by distributors.

In addition, if the PPE is marked with the date of manufacture the final user might confuse it with the date of obsolescence of the PPE, the date which the Directive makes obligatory for PPE subject to ageing.

Lastly, the final user might be concerned at seeing different dates on the same PPE made up of several component parts, each marked separately.

3. Consultation of interested parties

The manufacturers' request has been mentioned several times in the "PPE" working party of the committee set up by Directive 89/392/EEC⁴, which is competent to deal with all the questions arising from the implementation and practical application of the PPE Directive.

⁴ OJ No L 183, 29.6.1989, p. 9.

At its meeting of 17 and 18 July 1995, the working party welcomed the draft proposal. The group is made up of the Representatives of the Member States, representatives of EFTA members of the Agreement on the European Economic Area (EEA), of the industrial federations concerned, in particular the European Safety Federation (ESF) and the Federation of the European Sporting Goods Industry (FESI) as well as representatives of the bodies notified and the European standardization organizations (CEN and Cenelec).

4. Application date

This proposal for a Directive shall enter into force on 1 January 1997, the date of the end of the transitional period provided for by Directive 93/68/EEC amending Directive 89/686/EEC, no provision being made for a transitional period.

Having the same date for the termination of one system and the entry into force of another for "CE" marking will make the situation clear for manufacturers and avoid any uncertainty.

5. Relevance to the European Economic Area (EEA)

This proposal falls into the field covered by the Agreement on the European Economic Area. The consultations included experts from the EFTA countries in the EEA.

II The proposal for a Directive

The proposal for a Directive confines itself to deleting from Annex IV to the Directive the references to indication of the date on which the CE conformity marking was affixed.

Proposal for a European Parliament and Council Directive amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment (PPE)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 189b of the Treaty,

Whereas Directive 89/686/EEC¹ requires that all personal protective equipment bear the CE marking and that this marking be accompanied by additional information corresponding to the year in which the marking was affixed;

Whereas this indication of the year is not a factor beneficial to the safety of the user of the personal protective equipment; whereas this indication might be confused with the date of obsolescence which must be affixed to personal protective equipment subject to ageing;

¹ OJ No L 399, 30.12.1989, p. 18, directive amended by directives 93/68/EEC (OJ No L 220, 30.8.1993, p. 1, and 93/95/EEC (OJ No L 276, 9.11.1993, p. 11).

Whereas affixing this indication of the year is a burden on the manufacturers of personal protective equipment; whereas the cost of this burden is far from negligible;

Whereas, in view of the principle of subsidiarity, this simplification for manufacturers can be achieved only by means of a directive amending the original directive,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/686/EEC shall be amended as follows:

In Annex IV, the following wording shall be deleted:

"Additional information

- The last two digits of the year in which the CE marking was affixed; this information is not required in the case of the PPE referred to in Article 8 (3)."

Article 2

1. By ...^{2.}, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

2. Three months from the date of adoption of this Directive.

When Member States adopt such laws, regulations and administrative provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference when they are officially published. The way in which this reference is to be made will be decided on by the Member States.

They shall apply these laws, regulations and administrative provisions from 1 January 1977.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

FINANCIAL STATEMENT

Financial implications

(items intended for publication in working documents)

1. TITLE OF OPERATION

Proposal for a European Parliament and Council Directive amending Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (PPE).

2. BUDGET HEADING INVOLVED

No expenditure is envisaged in part B of the budget.

3. LEGAL BASIS

Article 100a of the EC Treaty.

4. DESCRIPTION OF OPERATION

4.1 General objective:

The purpose of this proposal for a Directive is to simplify manufacturers' obligations relating to "EC" marking, repealing the obligation to indicate on every item of PPE the year in which the "CE" marking was affixed.

4.2 Period covered: this is a single ad hoc operation.

4.3 Population targeted: potentially all PPE users, particularly manufacturers.

5. CLASSIFICATION OF EXPENDITURE

5.1 Compulsory/Non-compulsory expenditure: not applicable.

5.2 Differentiated/Non-differentiated appropriations: not applicable.

5.3 No revenues are envisaged.

6. TYPE OF EXPENDITURE

No expenditure is envisaged in part B of the budget.

6.1 100% subsidy: none.

- 6.2 Subsidy for joint financing with other sources in the public and/or private sector:
none.
- 6.3 Interest subsidy: none.
- 6.4 Other: none.
- 6.5 Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed? Not applicable.
- 6.6 Will the proposed operation cause any change in the level of revenue? No.

7. FINANCIAL IMPACT

- 7.1 Method of calculating total cost of operation:
Not applicable.
- 7.2 Itemized breakdown of cost:
Not applicable.
- 7.3 Operational expenditure on studies, expert meetings, etc., included in part B of the budget:
None.
- 7.4 Indicative schedule of appropriations:
Not applicable.

8. FRAUD PREVENTION MEASURES

Not applicable.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS**9.1 Specific and quantifiable objective:**

Repeal of the obligation to indicate the year in which the "CE" marking was affixed is considered by the manufacturers to represent a cost reduction corresponding to about 5% of turnover.

9.2 Grounds for the operation:

The repeal of the obligation to indicate the year in which the "CE" marking was affixed is an administrative simplification which reduces the manufacturing costs of PPE. The change does not affect the safety of PPE, and the obligation to indicate

- the date of obsolescence of PPE subject to ageing and
 - the useful life of PPE the quality of which deteriorates in use
- is maintained in the text of the directive.

9.2.1 Need for Community financial aid:

Not applicable.

9.2.2 Choice of ways and means:

Not applicable.

9.3 Monitoring and evaluation of the operation:**9.3.1 Performance indicators selected:**

Not applicable.

9.3.2 Details and frequency of planned evaluations:

Continuous monitoring of the conditions of implementation and practical application of this Directive.

IMPACT ASSESSMENT FORM**TITLE OF PROPOSAL**

Proposal for a European Parliament and Council Directive amending Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (PPE).

REFERENCE NUMBER:1. THE PROPOSAL

This is a proposal for a "new approach" directive based on Article 100a of the Treaty. It is basically aimed at achieving the following objective:

- to repeal the obligation to indicate on every item of PPE the year in which the EC marking was affixed.

2. THE IMPACT ON BUSINESS(a) Characteristics of the firms involved

Most of the firms manufacturing personal protective equipment (PPE) are SMEs.

(b) Geographical distribution of the firms and the market

Firms making PPE are scattered throughout the territory of the Union and EFTA countries.

(c) Are these firms located in regions eligible for regional aid from Member States and the ERDF?

There is not known to be any particular concentration in these regions.

3. WHAT WILL BUSINESS HAVE TO DO TO COMPLY WITH THE DIRECTIVE?

The proposal for a directive seeks to simplify some obligations on firms and to simplify manufacture; there are no special steps they need to take to be able to comply with it.

4. WHAT ECONOMIC EFFECTS IS THE PROPOSAL LIKELY TO HAVE?

(a) on employment?

The proposal for a directive can only have a positive effect on employment.

(b) on investment and the creation of new businesses?

Application of the proposal for a Directive requires no investment, on the contrary, it will make it possible to dispense with the wasteful expenditure caused by having to change the marking at the beginning of each year and match the packaging to the products.

The creation of a new firm will be unaffected by the measure.

(c) on the competitive position of businesses?

The European Federation of Manufacturers considers that the obligation to mark the year of manufacture on every item of PPE represents a cost which could be estimated at some 5% of turnover. Dispensing with this outlay will enable firms to improve their overall competitiveness.

(d) on health and safety:

The aspects of the Directive relating to users' health and safety will not be diminished, indeed, quite the reverse, since it will rule out any possible misunderstanding as regards the useful life and obsolescence of PPE; the obligation imposed by the Directive to give indications of the useful life of products likely to deteriorate in use and on the date of obsolescence of products subject to ageing is not changed.

5. MEASURES INTENDED TO TAKE ACCOUNT OF THE SPECIFIC SITUATION OF SMEs

The proposal for a Directive does not provide for any specific measures applicable only to SMEs.

6. CONSULTATION OF THE TWO SIDES OF INDUSTRY AND THEIR VIEWPOINTS

A draft proposal has been examined by the PPE working party of the Committee created by Directive 89/392/EEC.

This group is competent to deal with all the questions raised by the implementation and practical application of the PPE Directive.

The working party consists of representatives of manufacturers and users.

(a) manufacturers:

- ESF (European Safety Federation);
- FESI (Federation of the European Sporting Goods Industry);
- European Confederation of the Footwear Industry.

(b) users:

- BTS (Bureau technique syndical)

All the interested parties have expressed their approval.

COM(95) 552 final

DOCUMENTS

EN

06 05

Catalogue number : CB-CO-95-588-EN-C

ISBN 92-77-95870-7

Office for Official Publications of the European Communities

L-2985 Luxembourg