

Official Journal

of the European Communities

ISSN 0378-6986

C 177 E

Volume 43

27 June 2000

English edition

Information and Notices

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I <i>Information</i>	
	
	II <i>Preparatory Acts</i>	
	Commission	
2000/C 177 E/01	Amended proposal for a European Parliament and Council Regulation on orphan medicinal products (COM(1999) 298 <i>final</i> — 98/0240(COD))	1
2000/C 177 E/02	Amended proposal for a directive of the European Parliament and of the Council amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (COM(1999) 339 <i>final</i> — 97/0027(COD)) ⁽¹⁾	11
2000/C 177 E/03	Proposal for a European Parliament and Council Directive amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (COM(1999) 352 <i>final</i> — 1999/0152(COD))	14
2000/C 177 E/04	Amended proposal for a European Parliament and Council Directive concerning the distance marketing of consumer financial services and amending Directives 97/7/EC and 98/27/EC (COM(1999) 385 <i>final</i> — 98/0245(COD))	21
2000/C 177 E/05	Proposal for a Council Regulation (EC) amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas (COM(1999) 582 <i>final</i> — 1999/0235(CNS))	28
2000/C 177 E/06	Amended proposal for a European Parliament and Council Decision setting up a Community framework for cooperation in the field of accidental marine pollution (COM(1999) 641 <i>final</i> — 98/0350(COD)) ⁽¹⁾	31



<u>Notice No</u>	Contents (continued)	Page
2000/C 177 E/07	Proposal for a Council Directive establishing a general framework for equal treatment in employment and occupation (COM(1999) 565 <i>final</i> — 1999/0225(CNS)) ⁽¹⁾	42
2000/C 177 E/08	Proposal for a Council Decision on the accession of the European Community to Regulation 108 of the United National Economic Commission for Europe concerning the approval for the production of retreaded pneumatic tyres for motor vehicles and their trailers (COM(1999) 728 <i>final</i> — 2000/0002(AVC)) ⁽¹⁾	47
2000/C 177 E/09	Proposal for a Council Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (COM(2000) 27 <i>final</i> — 2000/0030(CNS))	66
2000/C 177 E/10	Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (COM(2000) 30 <i>final</i> — 2000/0032(COD))	70
2000/C 177 E/11	Proposal for a European Parliament and Council Decision establishing the list of priority substances in the field of water policy (COM(2000) 47 <i>final</i> — 2000/0035(COD)) ⁽¹⁾	74
2000/C 177 E/12	Proposal for a Council Directive amending Directive 68/193/EEC on the marketing of material for the vegetative propagation of the vine (COM(2000) 59 <i>final</i> — 2000/0036(CNS))	77
2000/C 177 E/13	Proposal for a Council Decision concerning the conclusion, on behalf of the Community, of the new Convention for the Protection of the Rhine (COM(2000) 61 <i>final</i> — 2000/0037(CNS))	83
	Convention on the Protection of the Rhine	84
2000/C 177 E/14	Proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements (COM(2000) 95 <i>final</i> — 2000/0042(CNS))	91
2000/C 177 E/15	Proposal for a Council Directive amending Directives 69/169/EEC and 92/12/EEC as regards temporary quantitative restrictions on beer imports into Finland (COM(2000) 76 <i>final</i> — 2000/0038(CNS))	93
2000/C 177 E/16	Proposal for a Council Regulation amending Regulation (EEC) No 918/83 as regards a temporary derogation for duty-free imports of beer into Finland (COM(2000) 76 <i>final</i> — 2000/0039(CNS))	95
2000/C 177 E/17	Proposal for a directive of the European Parliament and of the Council amending Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road (COM(2000) 106 <i>final</i> — 2000/0044(COD)) ⁽¹⁾	96
2000/C 177 E/18	Proposal for Council Regulation amending Regulation (EC) No 974/98 on the introduction of the euro (COM(2000) 346 <i>final</i> — 2000/0137(CNS))	98



⁽¹⁾ Text with EEA relevance

<u>Notice No</u>	Contents (continued)	Page
2000/C 177 E/19	Proposal for Council Regulation amending Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro (COM(2000) 346 <i>final</i> — 2000/0134(CNS)).....	99
2000/C 177 E/20	Proposal for Council Regulation amending Regulation (EC) No 2866/98 on the conversion rates between the euro and the currencies of the Member States adopting the euro (COM(2000) 346 <i>final</i> — 2000/0138(CNB))	100

II

(Preparatory Acts)

COMMISSION

Amended proposal for a European Parliament and Council Regulation on orphan medicinal products ⁽¹⁾

(2000/C 177 E/01)

COM(1999) 298 final — 98/0240(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC-Treaty 16 June 1999)⁽¹⁾ OJ C 276, 4.9.1998, p. 7.

INITIAL PROPOSAL

AMENDED PROPOSAL

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
189 B of the EC Treaty,

- (1) Whereas some conditions occur so infrequently that the cost of developing and bringing to the market a medicinal product to diagnose, prevent or treat the condition would not be recovered by the expected sales of the medicinal product; whereas the pharmaceutical industry would be unwilling to develop the medicinal product under normal market conditions; whereas these medicinal products are therefore called 'orphan';
- (2) Whereas patients suffering from rare conditions should be entitled to the same quality of treatment as other patients; whereas it is therefore necessary to stimulate the research, development and bringing to the market of appropriate medications by the pharmaceutical industry; whereas incentives for the development of orphan medicinal products have been available in the United States since 1983 and in Japan since 1993;
- (3) Whereas, in the European Union, only limited action has been taken so far, whether at national or at Community level, to stimulate the development of orphan medicinal products; whereas such action is best taken at Community level in order to take advantage of the widest possible market and to avoid the dispersion of limited resources; whereas action at Community level is preferable to uncoordinated measures by the Member States which may result in distortions of competition and barriers to intra-Community trade;

Unchanged

Having regard to the Treaty establishing the European
Community, and in particular Article 95 thereof,

Unchanged

Acting in accordance with the procedure laid down in Article
251 of the EC Treaty,

Unchanged

INITIAL PROPOSAL

AMENDED PROPOSAL

- (4) Whereas orphan medicinal products eligible for incentives should be easily and unequivocally identified; whereas it seems most appropriate to achieve this result through the establishment of an open and transparent Community procedure for the designation of potential medicinal products as orphan medicinal products;
- (5) Whereas objective criteria for designation should be established; whereas these criteria should be based on the prevalence of the condition for which diagnosis, prevention or treatment is sought; whereas a prevalence of no more than five affected persons per ten thousand is generally regarded as the appropriate threshold; whereas medicinal products intended for a life-threatening, seriously debilitating or seriously debilitating communicable condition should be eligible even when the prevalence is higher than five per ten thousand;
- (6) Whereas a Committee composed of experts appointed by the Member States should be established to examine applications for designation; whereas this Committee should in addition include three representatives of patients' associations, to be designated by the Commission, and three other persons, also designated by the Commission, on a recommendation from the Agency; whereas the Agency should be responsible for the adequate coordination between the Committee on orphan medicinal products and the Committee on proprietary medicinal products;
- (7) Whereas patients with such conditions deserve the same quality, safety and efficacy in medicinal products as other patients; whereas orphan medicinal products should therefore be submitted to the normal evaluation process; whereas sponsors of orphan medicinal products should have the possibility of obtaining a Community authorisation; whereas, in order to facilitate the granting of a Community authorisation, fee to be paid to the Agency should be waived at least in part; whereas the Community budget should compensate the Agency for the loss in revenue thus occurred;
- (8) Whereas experience in the United States and Japan shows that the strongest incentive for industry to invest in the development and marketing of orphan medicinal products is the prospect of obtaining market exclusivity for a certain number of years during which part of the investment might be recovered; whereas data protection under Article 4(8)(a)(iii) of Council Directive 65/65 is not sufficient incentive for that purpose; whereas market exclusivity should however be limited to the therapeutic indication for which orphan medicinal product designation has been obtained; whereas, in the interest of patients, the market exclusivity granted to an orphan medicinal product should not prevent the marketing of a similar medicinal which is safer, more effective or otherwise clinically superior;
- (5) Whereas objective criteria for designation should be established; whereas these criteria should be based on the prevalence of the condition for which diagnosis, prevention or treatment is sought; whereas a prevalence of no more than five affected persons per ten thousand is generally regarded as the appropriate threshold; whereas medicinal products intended for a life-threatening, seriously debilitating or serious and chronic condition should be eligible even when the prevalence is higher than five per ten thousand;
- Unchanged
- (7) Whereas patients with such conditions deserve the same quality, safety and efficacy in medicinal products as other patients; whereas orphan medicinal products should therefore be submitted to the normal evaluation process; whereas sponsors of orphan medicinal products should have the possibility of obtaining a Community authorisation; whereas, in order to facilitate the granting or the maintenance of a Community authorisation, fees to be paid to the Agency should be waived at least in part; whereas the Community budget should compensate the Agency for the loss in revenue thus occurred;
- (8) Whereas experience in the United States and Japan shows that the strongest incentive for industry to invest in the development and marketing of orphan medicinal products is the prospect of obtaining market exclusivity for a certain number of years during which part of the investment might be recovered; whereas data protection under Article 4(8)(a)(iii) of Council Directive 65/65 is not sufficient incentive for that purpose; whereas Member States acting independently cannot introduce this measure without a Community dimension as such a provision would be contradictory to Directive 65/65/EEC; whereas if such measures were adopted in an uncoordinated manner by the Member States, this would create obstacles to intra-Community trade, leading to distortions of competition and running contrary to a single market;

INITIAL PROPOSAL

AMENDED PROPOSAL

whereas market exclusivity should however be limited to the therapeutic indication for which orphan medicinal product designation has been obtained, without prejudice to existing intellectual property rights; whereas, in the interest of patients, the market exclusivity granted to an orphan medicinal product should not prevent the marketing of a similar medicinal which could be of significant benefit to those affected by the condition;

- (9) Whereas sponsors of orphan medicinal products designated under this Regulation should be entitled to the full benefit of any incentives granted by the Community or by the Member States to support the research and development of medicinal products for the diagnosis, prevention or treatment of such conditions, including rare diseases;
- Unchanged
- (10) Whereas the specific programme Biomed 2, of the Fourth Framework Programme for research and technological development (1994-1998), support research on the treatment of rare diseases, including methodologies for rapid schemes for the development of orphan medicinal products and inventories of available orphan medicinal in Europe; whereas these grants to promote the establishment of cross national cooperation in order to implement basic and clinical research on rare diseases; whereas research on rare diseases continue to be a priority for the Commission, as it has been in the Commission's Fifth Framework Programme (1998-2002) for research and technological development; whereas this Regulation establishes a legal framework which will allow the swift and effective implementation of the outcome of this research;
- (10) Whereas the specific programme Biomed 2, of the Fourth Framework Programme for research and technological development (1994-1998), supported research on the treatment of rare diseases, including methodologies for rapid schemes for the development of orphan medicinal products and inventories of available orphan medicinal in Europe; whereas these grants were to promote the establishment of cross national cooperation in order to implement basic and clinical research on rare diseases; whereas research on rare diseases continues to be a priority for the Community, as it has been included in the Commission's Fifth Framework Programme (1998-2002) for research and technological development; whereas this Regulation establishes a legal framework which will allow the swift and effective implementation of the outcome of this research;
- (11) Whereas rare diseases have been identified as a priority area for Community action within the framework for action in the field of public health (COM(93) 559 final); whereas the Commission, in its communication concerning a programme of Community action on rare diseases within the framework for action in the field of public health (COM(97) 225 final) has decided to give rare diseases priority within the public health framework; whereas the Commission has proposed a European Parliament and Council Decision adopting a programme of Community action 1999-2003 on rare diseases in the context of the framework for action in the field of public, including actions to provide information, to deal with clusters of rare diseases in a population and to support relevant patient organisations; whereas this Regulation carries out one of the priorities laid down in this programme of action.
- Unchanged

INITIAL PROPOSAL

AMENDED PROPOSAL

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

The purpose of this Regulation is to lay down a Community procedure for the designation of medicinal products as orphan medicinal products and to provide incentives for the research, development and bringing to the market of designated orphan medicinal products.

Article 2

Scope and definitions

For the purpose of this Regulation:

- *medicinal product* means a medicinal product for human use, as defined in Article 2 of Directive 65/65/EEC,
- *orphan medicinal product* means a medicinal product designated under the terms and conditions of this Regulation,
- *sponsor* means any legal or natural person, established in the Community, seeking to obtain the designation of a medicinal product as orphan medicinal product,
- *Agency* means the European Agency for the Evaluation of Medicinal Products.

- *sponsor* means any legal or natural person, established in the Community, seeking to obtain or who has obtained the designation of a medicinal product as orphan medicinal product,

Unchanged

Article 3

Criteria for designation

1. A medicinal product shall be designated as orphan medicinal product if its sponsor can establish that the medicinal product is intended for the diagnosis, prevention or treatment of a condition affecting less than five per ten thousand persons in the Community at the time that the application is made and that there exists no satisfactory method of diagnosis, prevention or treatment of the considered condition that has been authorised in the Community or, if such method exists, that it can reasonably be expected that the medicinal product will be safer, more effective or otherwise clinically superior.

2. Notwithstanding paragraph 1, a medicinal product may also be designated as orphan medicinal product if its sponsor can establish that the medicinal product is intended for a life-threatening, or seriously debilitating communicable condition in the Community and that it is unlikely that, without incentives, the marketing of the medicinal product in the Community would generate sufficient return to justify the necessary investment.

1. A medicinal product shall be designated as orphan medicinal product if its sponsor can establish that the medicinal product is intended for the diagnosis, prevention or treatment of a condition affecting less than five per ten thousand persons in the Community at the time that the application is made and that there exists no satisfactory method of diagnosis, prevention or treatment of the considered condition that has been authorised in the Community or, if such method exists, that the medicinal product will be of significant benefit to those affected by the condition.

2. Notwithstanding paragraph 1, a medicinal product may also be designated as orphan medicinal product if its sponsor can establish that the medicinal product is intended for the diagnosis, prevention or treatment of a life-threatening, seriously debilitating or a serious and chronic condition in the Community and that it is unlikely that, without incentives, the marketing of the medicinal product in the Community would generate sufficient return to justify the necessary investment.

INITIAL PROPOSAL

AMENDED PROPOSAL

3. The Commission shall, in consultation with the Member States, the Agency, and interested parties, draw up detailed guidance for the application of this Article.

Unchanged

*Article 4***Committee for Orphan Medicinal Products**

1. A Committee for Orphan Medicinal Products, hereinafter referred to as 'the Committee', is hereby set up.

1. A Committee for Orphan Medicinal Products, hereinafter referred to as 'the Committee', is hereby set up within the European Agency for the Evaluation of Medicinal Products.

2. The task of the Committee shall be:

Unchanged

(a) to examine any application for designation of a medicinal product as orphan medicinal product which is submitted to it in accordance with this Regulation,

(b) upon request, to advise the Commission on the establishment and development of an orphan medicinal product policy for the European Union,

(c) to assist the Commission in international liaison on matters relating to orphan medicinal products, particularly the United States and Japan, and in liaisons with patients support groups.

3. The Committee shall consist of one member nominated by each Member State, three members nominated by the Commission to represent patient organisations and three members nominated by the Commission on the basis of a recommendation from the Agency. The members of the Committee shall be appointed for a term of three years which shall be renewable. They shall be chosen by reason of their role and experience in treatment of or research into rare diseases.

3. The Committee shall consist of one member nominated by each Member State, three members nominated by the Commission to represent patient organisations and three members nominated by the Commission on the basis of a recommendation from the Agency. The members of the Committee shall be appointed for a term of three years which shall be renewable. Where necessary they may seek the assistance of an expert.

4. The Committee shall elect its Chairman for a term of three years, renewable once.

Unchanged

5. The representatives of the Commission and the Executive Director of the Agency or his representative may attend all meetings of the Committee.

6. The Agency shall provide the Secretariat of the Committee.

7. Members of the Committee shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

*Article 5***Procedure for designation**

1. In order to obtain the designation of a medicinal product as orphan medicinal product, the sponsor shall submit, an application to the Agency.

1. In order to obtain the designation of a medicinal product as orphan medicinal product, the sponsor shall submit, at any stage of the development of the medicinal product before an application for marketing authorisation is made, an application to the Agency.

INITIAL PROPOSAL

AMENDED PROPOSAL

2. The application shall be accompanied by the following particulars and documents:

Unchanged

(a) name or corporate name and permanent address of the sponsor,

(b) the name of the active ingredient(s)

(c) proposed therapeutic indication,

Unchanged

(d) the justification that Article 3 paragraph 1 or 2 is applicable.

3. The Commission shall, in consultation with the Member States, the Agency and interested parties, draw up detailed guidance on the format and content in which applications for designation are to be presented.

4. The Agency shall verify the validity of the application and prepare a summary report to the Committee. Where appropriate, it may request the sponsor to supplement the particulars and documents accompanying the application.

5. The Agency shall ensure that an opinion is given by the Committee within 60 days of the receipt of a valid application.

5. The Agency shall ensure that an opinion is given by the Committee within 90 days of the receipt of a valid application.

6. When preparing its opinion, the Committee shall use its best endeavours to reach a consensus. If such a consensus cannot be reached, the opinion shall consist of the position of the majority of members. The opinion may be obtained by written procedure.

6. When preparing its opinion, the Committee shall use its best endeavours to reach a consensus. If such a consensus cannot be reached, the opinion shall be adopted by a majority of two-thirds of the members of the Committee. The opinion may be obtained by written procedure.

7. Where the opinion of the Committee is that the application does not satisfy the criteria set out in Article 3 paragraph 1, the Agency shall forthwith inform the sponsor. Within 30 days of receipt of the opinion, the sponsor may submit detailed grounds for appeal, which the Agency shall refer to the Committee. The Committee shall consider whether its opinion should be revised at the following meeting.

Unchanged

8. The Agency shall forthwith forward the final opinion of the Committee to the Commission, which shall adopt a decision within 30 days of receipt of the opinion. Where, exceptionally, the draft decision is not in accordance with the opinion of the Committee, the decision shall be adopted in accordance with the procedure laid down in Article 72 of Regulation (EEC) No 2309/93. The decision shall be notified to the sponsor and communicated to the Agency and to the competent authorities of the Member States.

9. The designated medicinal product shall be entered in the Community Register of Orphan Medicinal Products.

INITIAL PROPOSAL

AMENDED PROPOSAL

*Article 6***Protocol assistance**

1. The sponsor of an orphan medicinal product may, prior to the submission of an application for marketing authorisation, request advice from the Agency on the conduct of the various tests and trials necessary to demonstrate the quality, safety and efficacy of the medicinal product.

2. The Agency shall draw up a procedure on the development of orphan medicinal products, which shall cover in particular:

- (a) assistance in the development of a protocol and for the follow up of clinical investigations;
- (b) regulatory assistance for the definition of the content of the application for authorisation within the meaning of Article 6 of Council Regulation (EEC) No 2309/93.

*Article 7***Community marketing authorisation**

1. The person responsible for placing on the market an orphan medicinal product may request that authorisation to place the medicinal product on the market be granted by the Community in accordance with the provisions of Regulation (EEC) No 2309/93 without having to justify that the medicinal product qualifies under any part of the Annex to that Regulation.

2. A special contribution from the Community, distinct from that provided for in Article 57 of Regulation (EEC) No 2309/93, will be allocated every year to the Agency. This contribution will be used exclusively by the Agency to waive, in part or in total, the fees payable under Community rules adopted pursuant to Regulation (EEC) No 2309/93. A detailed report of the use made of this special contribution shall be presented by the Executive Director of the Agency at the end of each year. Any surplus occurring in a given year shall be carried forward and deducted from the special contribution for the following year.

10. Each year the sponsor shall provide the Agency with a report on the state of development of the designated medicinal product.

11. In order to secure the transfer to another sponsor of the designation of an orphan medicinal product, the holder of that designation shall submit a specific application to the Agency. In consultation with the Member States, the Agency and the interested parties, the Commission shall draw up detailed guidance concerning the form in which transfer applications must be submitted and also the contents of such applications.

Unchanged

(a) assistance in the development of a protocol for pre-clinical and clinical trials during the development phase and for the follow up of clinical investigations;

Unchanged

INITIAL PROPOSAL

AMENDED PROPOSAL

3. The marketing authorisation granted for an orphan medicinal product shall cover only those therapeutic indications which fulfil the criteria set out in Article 3. This is without prejudice to the possibility to apply for a separate marketing authorisation for other indications outside the scope of this Regulation.

*Article 8***Market exclusivity**

1. Where a marketing authorisation is granted pursuant to Regulation (EEC) No 2309/93 in respect of an orphan medicinal product the Community and the Member States shall not, for a period of ten years, accept another application for a marketing authorisation, nor grant a marketing authorisation or extend an existing marketing authorisation, for the same therapeutic indication, in respect of a similar medicinal product.

2. This period may however be reduced to six years if, at the end of the fifth year, a Member State can establish that the criteria laid down in Article 3 are no longer met in respect of the medicinal product concerned or that the price charged for the medicinal product concerned is such that it allows the earning of an unreasonable profit. To this end, the Member State shall initiate the procedure laid down in Article 5.

3. By derogation to paragraph 1, and without prejudice to intellectual property law or any other provision of Community law, a marketing authorisation may be granted, for the same therapeutic indication, to a similar medicinal product if:

- (a) the holder of the marketing authorisation of the original orphan medicinal product has given his consent to the second applicant, or
- (b) the holder of the marketing authorisation of the original orphan medicinal product is unable to supply sufficient quantities of the medicinal product, or
- (c) the second applicant can establish in the application that the second medicinal product, although similar to the orphan medicinal product already authorised, is safer, more effective or otherwise clinically superior.

4. At the end of the period of market exclusivity, the orphan medicinal product shall be removed from the Community Register of Orphan Medicinal Products.

1. Where a marketing authorisation is granted pursuant to Regulation (EEC) No 2309/93 or when all Member States have granted marketing authorisations according to the procedures for mutual recognition foreseen in Articles 7 and 7a of Directive 65/65/EEC or Article 9(4) of Directive 75/319/EEC in respect of an orphan medicinal product and without prejudice to the provisions of the law on intellectual property or any other provision of Community law, the Community and the Member States shall not, for a period of ten years, accept another application for a marketing authorisation, nor grant a marketing authorisation or extend an existing marketing authorisation, for the same therapeutic indication, in respect of a similar medicinal product.

Unchanged

INITIAL PROPOSAL

5. For the purpose of this Article, a 'similar medicinal product' means one which consists of:

- the same chemical active substance or active moiety of the substance, including isomers and mixture of isomers, complexes, esters, other non-covalent derivatives, provided that the pharmacological and toxicological activities of the latter are qualitatively and quantitatively identical to those of the original product,
- a substance with the same biological activity (including those that differ from the original substance in molecular structure, source material and/or manufacturing process) provided that the pharmacological activity of said substance is qualitatively and quantitatively identical to that of the original product,
- a substance with the same radiopharmaceutical activity (including those with a different radionuclide, ligand, site of labelling or molecule-radionuclide coupling mechanism) provided that its diagnostic or therapeutic indications are identical to those of the original product.

6. The Commission shall, in consultation with the Member States, the Agency and interested parties, draw up detailed guidance for the application of this Article.

*Article 9***Other incentives**

1. Medicinal products designated as orphan medicinal products under the provisions of this Regulation shall be eligible for incentives made available by the Community and by the Member States to support the research, development and availability of orphan medicinal.

2. Within six months of the adoption of this Regulation, the Member States shall communicate to the Commission detailed information about the measures they have enacted to support the research, development and availability of orphan medicinal products. This information shall be updated on a regular basis.

3. Member States shall also consider waiving, in part or in total, the fees to be paid in respect of applications to place orphan medicinal products on the market.

AMENDED PROPOSAL

5. The Commission shall adopt definitions of 'similar medicinal product' and of 'clinical superiority' in the form of an implementing Regulation, in accordance with the procedure laid down in Article 72 of Regulation (EEC) No 2309/93, at the latest one year after the adoption of the present regulation.

6. The Commission shall, in consultation with the Member States, the Agency and interested parties, draw up detailed guidance for the application of this Article, including the implementing Regulation.

1. Medicinal products designated as orphan medicinal products under the provisions of this Regulation shall be eligible for incentives made available by the Community and by the Member States to support the research, development and availability of orphan medicinal products and in particular aid for research for Small and Medium Enterprises provided under the Fifth Framework Programme for Research and Technological Development.

2. Within six months of the adoption of this Regulation, the Member States shall communicate to the Commission detailed information about any measures they may have enacted to support the research, development and availability of orphan medicinal products. This information shall be updated on a regular basis.

Deleted

INITIAL PROPOSAL

AMENDED PROPOSAL

4. Within one year from the adoption of this Regulation, the Commission shall publish a detailed inventory of all incentives made available by the Community and the Member States to support the research, development and availability of orphan medicinal products. This inventory will be updated on a regular basis.

*Article 10***General report**

Within six years of the entry into force of this Regulation, the Commission shall publish a general report on the experience acquired as a result of the application of this Regulation.

*Article 11***Entry into force**

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

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

3. Within one year from the adoption of this Regulation, the Commission shall publish a detailed inventory of all incentives made available by the Community and the Member States to support the research, development and availability of orphan medicinal products. This inventory will be updated on a regular basis.

Unchanged

Amended proposal for a directive of the European Parliament and of the Council amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽¹⁾

(2000/C 177 E/02)

(Text with EEA relevance)

COM(1999) 339 *final* — 97/0027(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 1 July 1999)

⁽¹⁾ OJ C 106, 4.4.1997, p. 5.

INITIAL PROPOSAL

AMENDED PROPOSAL

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Unchanged

Having regard to the Treaty establishing the European Community, and in particular Article 95 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 referred to in Article 251 of the Treaty,

(1) Whereas Article 6(3) of Directive 79/112/EEC lays down that 'in the case of beverages containing more than 1,2 % by volume of alcohol, the Council, acting on a proposal from the Commission, shall, before the expiry of a period of four years following notification of this Directive, determine the rules for labelling ingredients';

(2) Whereas, in order to contribute to the achievement of a high level of health and to the protection of the health of consumers, it must be ensured that consumers are appropriately informed about foodstuffs, and especially alcoholic beverages, inter alia through the listing of the ingredients on labels; whereas the need for this is all the more urgent since more and more alcoholic beverages whose composition and presentation are obviously geared to sales to young people have come onto the market in recent years; whereas common legislation on the labelling of alcoholic beverages is essential for the expansion and preservation of the internal market in these products;

(3) Whereas the Commission's earlier proposals in response to this mandate ⁽¹⁾ failed to win the agreement of the Member States;

Unchanged

(4) Whereas account should be taken of the case-law of the Court of Justice of the European Communities concerning the labelling of alcoholic beverages ⁽²⁾;

⁽¹⁾ OJ C 281, 26.10.1982, p. 3 (OJ C 122, 14.5.1992, p. 12).

⁽²⁾ Judgment of 12.3.1987 in Case 178/84 (Beer Purity Law), and in particular grounds 35 and 36.

INITIAL PROPOSAL

AMENDED PROPOSAL

(5) Whereas it is for the Community legislator to adopt the measures deriving from that case-law;

(6) Whereas, furthermore, the Scientific Committee for Food set up by Commission Decision 97/579/EC ⁽¹⁾ should be consulted on any issue relating to Directive 79/112/EEC likely to have an effect on public health,

HAVE ADOPTED THIS DIRECTIVE:

Unchanged

Article 1

1) Article 6(3) of Directive 79/112/EEC is hereby replaced by the following:

1) Article 6(3) of Directive 79/112/EEC is hereby replaced by the following:

‘3. The rules for labelling the ingredients of beverages containing more than 1,2 % alcohol by volume shall be adopted within a period of

‘3. The rules for labelling the ingredients of beverages containing more than 1,2 % alcohol by volume shall be adopted within a period of five years starting on 1 July 2000

(a) in the case of:

(a) in the case of:

- wines ⁽¹⁾, including sparkling wines ⁽²⁾, liqueur wines and semi-sparkling wines ⁽³⁾ offered for sale to the consumer;
- partially fermented grape must ⁽²⁾
- spirituous beverages ⁽⁴⁾,
- aromatised wines ⁽⁵⁾,

- wines ⁽¹⁾, including sparkling wines ⁽²⁾, liqueur wines and semi-sparkling wines ⁽³⁾ offered for sale to the consumer;
- partially fermented grape must ⁽²⁾
- spirituous beverages ⁽⁴⁾,
- aromatised wines, aromatised wine-based beverages and aromatised wine-product cocktails ⁽⁵⁾,

within the framework of the specific Community provisions applicable to them;

within the framework of the specific Community provisions applicable to them;

(b) in the case of, in accordance with the procedure laid down in Article 17.

(b) in the case of each category of other products, in accordance with the procedure laid down in Article 17.

The rules adopted in accordance with these procedures shall enter into force simultaneously for the beverages covered by points (a) and (b) of this paragraph.

The rules adopted in accordance with these procedures shall enter into force simultaneously for the beverages covered by points (a) and (b) of this paragraph.

For all these products the list of ingredients shall be preceded by the words “prepared with”.

For all these products the list of ingredients shall be preceded by the words “prepared with”.

⁽¹⁾ Council Regulation (EEC) No 2392/89 (OJ L 232, 9.8.1989, p. 13).

⁽¹⁾ Council Regulation (EEC) No 2392/89 (OJ L 232, 9.8.1989, p. 13).

⁽²⁾ Council Regulation (EEC) No 2333/92 (OJ L 231, 13.8.1992, p. 9).

⁽²⁾ Council Regulation (EEC) No 2333/92 (OJ L 231, 13.8.1992, p. 9).

⁽³⁾ Council Regulation (EEC) No 3895/91 (OJ L 368, 31.12.1991, p. 1).

⁽³⁾ Council Regulation (EEC) No 3895/91 (OJ L 368, 31.12.1991, p. 1).

⁽⁴⁾ Council Regulation (EEC) No 1576/89 (OJ L 160, 12.6.1989, p. 1).

⁽⁴⁾ Council Regulation (EEC) No 1576/89 (OJ L 160, 12.6.1989, p. 1).

⁽⁵⁾ Council Regulation (EEC) No 1601/91 (OJ L 149, 14.6.1991, p. 1).’

⁽⁵⁾ Council Regulation (EEC) No 1601/91 (OJ L 149, 14.6.1991, p. 1).’

⁽¹⁾ OJ L 237, 28.8.1997, p. 18.

INITIAL PROPOSAL

AMENDED PROPOSAL

Article 2

This Directive is addressed to the Member States.

2) The following article is inserted:

'Article 14a

The Scientific Committee for Food shall be consulted on all issues relating to this Directive which may have an effect upon public health.'

Unchanged

Proposal for a European Parliament and Council Directive amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering

(2000/C 177 E/03)

COM(1999) 352 final — 1999/0152(COD)

(Submitted by the Commission on 19 July 1999)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47 (2), first and third sentences, and Article 95 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 referred to in Article 251 of the Treaty

- (1) Whereas Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering (hereinafter referred to as 'the Directive' was adopted on 10 June 1991 ⁽¹⁾;
- (2) Whereas in two reports presented to the European Parliament and the Council pursuant to Article 17 of the Directive the Commission has reported on the implementation of the Directive and on progress in the fight against money laundering ⁽²⁾;
- (3) Whereas in its Reports and Resolutions in response to the Commission's two reports the European Parliament called for an updating and extension of the 1991 Directive ⁽³⁾;
- (4) Whereas the Action Plan of the High Level Group on Organised Crime endorsed by the Amsterdam European Council on 16-17 June 1997, and in particular recommendation 26, called for additional efforts to combat money laundering ⁽⁴⁾;
- (5) Whereas it is appropriate that the Directive, as one of the main international instruments in the fight against money laundering, should be updated in line with the conclusions of the Commission and the wishes

expressed by the European Parliament and the Member States; whereas in this way the Directive should not only reflect best international practice in this area but should also continue to set a high standard in protecting the financial sector and other vulnerable activities from the harmful effects of the proceeds of crime;

- (6) Whereas the GATS allows Members to adopt measures necessary to protect public morals and to adopt measures for prudential reasons, including for ensuring the stability and integrity of the financial system; whereas such measures should not impose restrictions beyond what is justified to safeguard those objectives;
- (7) Whereas the Directive does not establish clearly which Member State's authorities should receive suspicious transaction reports from branches of credit and financial institutions having their head office in another Member State nor which Member State's authorities are responsible for ensuring that such branches comply with Article 11 of the Directive;
- (8) Whereas this question has been discussed in the Money Laundering Contact Committee established by Article 13 of the Directive; whereas the authorities of the Member States in which the branch is located should receive such reports and exercise the above responsibilities;
- (9) Whereas this allocation of responsibilities should be set out clearly in the Directive by means of an amendment to the definition of 'credit institution' and 'financial institution' contained in Article 1 of the Directive;
- (10) Whereas the European Parliament has expressed concerns that the activities of currency exchange offices ('bureaux de change') and money transmitters (money remittance offices) are vulnerable to money laundering; whereas these activities should already fall within the scope of the Directive; whereas to dispel any doubt in this matter the coverage of these activities should be clearly confirmed in the Money Laundering Directive;
- (11) Whereas to ensure the fullest possible coverage of the financial sector it should also be made clear that the Directive applies to the activities of investment firms as defined in Council Directive 93/22/EEC (the Investment Services Directive) ⁽⁵⁾;

⁽¹⁾ OJ L 166, 28.6.1991, p. 77.

⁽²⁾ COM(95) 54 final and COM(1998) 401 final.

⁽³⁾ Doc. A4-0187/96 and OJ C 198, 8.7.1996, p. 245; Doc. A4-0093/99 and OJ C...

⁽⁴⁾ OJ C 251, 15.8.1997, p. 1.

⁽⁵⁾ OJ L 141, 11.6.1993, p. 27.

- (12) Whereas the Directive only obliges Member States to combat the laundering of the proceeds of drugs offences; whereas there has been a trend in recent years towards a much wider definition of money laundering based on a broader range of predicate or underlying offences, as reflected for example in the 1996 revision of the 40 Recommendations of the Financial Action Task Force (FATF), the leading international body devoted to the fight against money laundering;
- (13) Whereas a wider range of predicate offences facilitates suspicious transaction reporting and international co-operation in this area; whereas, therefore, the Directive should be brought up to date in this respect;
- (14) Whereas in the Joint Action of 3 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union on money laundering, the identification, tracing, freezing, seizure and confiscation of instrumentalities and the proceeds from crime ⁽¹⁾ the Member States agreed to make all serious offences, as defined in the Joint Action, predicate offences for the purpose of their criminalisation of money laundering;
- (15) Whereas the Directive imposes obligations regarding in particular the reporting of suspicious transactions; whereas it would be more appropriate and in line with the philosophy of the Action Plan to Combat Organised Crime for the prohibition of money laundering under the Directive to be extended to cover not only drugs offences but all organised crime activities, as well as fraud, corruption and any other illegal activities affecting the financial interests of the Communities, as referred to in Article 280 of the Treaty;
- (16) Whereas, in the case of such fraud, corruption and other illegal activities, the Member States authorities responsible for combating money laundering and the Commission should cooperate with each other and exchange relevant information;
- (17) Whereas on 21 December 1998 the Council adopted a Joint Action on the basis of Article K.3 of the Treaty on European Union on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union ⁽²⁾; Whereas this Joint Action reflects the Member States' agreement on the need for a common approach in this area;
- (18) Whereas, as required by the Directive, suspicious transaction reports are being made by the financial sector, and particularly by the credit institutions, in every Member State; whereas there is evidence that the tightening of controls in the financial sector has prompted money launderers to seek alternative methods for concealing the origin of the proceeds of crime;
- (19) Whereas there is a clear trend towards the increased use by money launderers of non-financial businesses; whereas this is confirmed by the work of the FATF on money laundering techniques and typologies;
- (20) Whereas Article 12 of the 1991 Directive already provides for the extension of the obligations of the Directive to other vulnerable professions and categories of undertakings outside the financial sector;
- (21) Whereas the question of vulnerable non-financial activities has been discussed on a number of occasions in the Money Laundering Contact Committee;
- (22) Whereas the obligations of the Directive concerning customer identification, record keeping and the reporting of suspicious transactions should be extended to a limited number of activities and professions which have been shown to be vulnerable to money laundering;
- (23) Whereas notaries and independent legal professionals should be made subject to the provisions of the Directive when performing a limited number of specific financial or corporate transactions where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of drugs trafficking or organised crime;
- (24) Whereas, however, where an independent lawyer or law firm is representing a client in formal legal proceedings it would not be appropriate under the directive to put the lawyer under an obligation to report suspicions of money laundering;
- (25) Whereas the Directive makes reference to 'the authorities responsible for combating money laundering' to which reports of suspicious operations must be made; whereas in the case of independent lawyers and to take proper account of the professional duty of discretion owed by the lawyer to his client Member States should be allowed to nominate the bar association or other lawyers' professional organisation as the responsible authority; whereas the rules governing the treatment of such reports and their possible onward transmission to the police or judicial authorities and in general the appropriate forms of cooperation between the bar associations or professional bodies and the authorities responsible for combating money laundering shall be determined by the Member States;

⁽¹⁾ OJ L 333, 9.12.1998, p. 1.

⁽²⁾ OJ L 351, 29.12.1998, p.1.

(26) Whereas there is a growing trend for financial services to be ordered and provided using means (such as post, telephone, computer) which limit or avoid direct contact between the supplier and the purchaser; whereas even in such cases the rules of the Directive on customer identification must be respected; whereas the Money Laundering Contact Committee has examined such non-face to face operations and has agreed principles and procedures that should govern customer identification; whereas those principles and procedures should be incorporated in the Directive in an annex,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 91/308/EEC is hereby amended as follows

1. Article 1 shall be replaced by the following:

'Article 1

For the purpose of this Directive

A. "Credit institution" means a credit institution, as defined as in the first indent of Article 1 of Directive 77/780/EEC ⁽¹⁾ and includes branches within the meaning of the third indent of that Article and located in the Community, of credit institutions having their head offices inside or outside the Community,

B. "Financial institution" means

1. an undertaking other than a credit institution whose principal activity is to carry out one or more of the operations included in numbers 2 to 12 and number 14 of the list annexed to Directive 89/646/EEC; these include the activities of currency exchange offices ("bureaux de change") and of money transmission/remittance offices,

2. an insurance company duly authorised in accordance with Directive 79/267/EEC ⁽²⁾, in so far as it carries out activities covered by that Directive,

3. an investment firm as defined in Article 1 of Directive 93/22/EEC;

This definition of financial institution includes branches located in the Community of financial institutions whose head offices are inside or outside the Community,

C. "Money laundering" means the following conduct when committed intentionally:

— the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action,

— the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity,

— the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity,

— participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing paragraphs.

Knowledge, intent or purpose required as an element of the above-mentioned activities may be inferred from objective factual circumstances.

Money laundering shall be regarded as such even where the activities which generated the property to be laundered were perpetrated in the territory of another Member State or in that of a third country.

D. "Property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interests in such assets.

E. "Criminal activity" means means

— a crime specified in Article 3(1)(a) of the Vienna Convention ⁽³⁾,

⁽¹⁾ OJ L 322, 17.12.1977, p. 30.

⁽²⁾ OJ L 63, 13.3.1979, p. 1.

⁽³⁾ United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic substances adopted on 19 December 1988 in Vienna.

- participation in activities linked to organised crime,
- fraud, corruption or any other illegal activity damaging or likely to damage the European Communities' financial interests and
- any other criminal activity designated as such for the purposes of this Directive by each Member State.

F. "Competent authorities" means the national authorities empowered by law or regulation to supervise any of the institutions or persons subject to this Directive.'

2. The following Article 2a shall be inserted:

'Article 2a

Member States shall ensure that the obligations laid down in this Directive are imposed on the following institutions:

1. credit institutions as defined in point A of Article 1;
2. financial institutions as defined point B of Article 1;

and on the following legal or natural persons acting in the exercise of their professional activities:

3. external accountants and auditors;
4. real estate agents;
5. notaries and other independent legal professionals when assisting or representing clients in respect of the:
 - (a) buying and selling of real property or business entities
 - (b) handling of client money, securities or other assets
 - (c) opening or managing bank, savings or securities accounts
 - (d) creation, operation or management of companies, trusts or similar structures
 - (e) execution of any other financial transactions
6. dealers in high-value goods, such as precious stones or metals
7. transporters of funds
8. the operators, owners and managers of casinos.'

3. Article 3 shall be replaced by the following:

'Article 3

1. Member States shall ensure that the institutions and persons subject to this Directive require identification of their customers by means of supporting evidence when entering into business relations, particularly, in the case of the institutions, when opening an account or savings accounts, or when offering safe custody facilities.

2. The identification requirement shall also apply for any transaction with customers other than those referred to in paragraph 1, involving a sum amounting to Euro 15 000 or more, whether the transaction is carried out in a single operation or in several operations which seem to be linked. Where the sum is not known at the time when the transaction is undertaken, the institution or person concerned shall proceed with identification as soon as it is apprised of the sum and establishes that the threshold has been reached.

Where an institution establishes business relations or enters into a transaction with a customer who has not been physically present for identification purposes ("non-face to face operations") the principles and procedures laid down in the Annex shall apply.

3. By way of derogation from paragraphs 1 and 2, the identification requirements with regard to insurance policies written by insurance undertakings within the meaning of Directive 79/267/EEC, where they perform activities which fall within the scope of that Directive shall not be required where the periodic premium amount or amounts to be paid in any given year does or do not exceed Euro 1 000 or where a single premium is paid amounting to Euro 2 500 or less. If the periodic premium amount or amounts to be paid in any given year is or are increased so as to exceed the Euro 1 000 threshold, identification shall be required.

3a. By way of derogation from paragraph 2 identification shall be required of all customers of casinos purchasing or exchanging gambling chips with a value of Euro 1 000 or more.

4. Member States may provide that the identification requirement is not compulsory for insurance policies in respect of pension schemes taken out by virtue of a contract of employment or the insured's occupation, provided that such policies contain no surrender clause and may not be used as collateral for a loan.

5. In the event of doubt as to whether the customers referred to in the above paragraphs are acting on their own behalf, or where it is certain that they are not acting on their own behalf, the institutions and persons subject to this Directive shall take reasonable measures to obtain information as to the real identity of the persons on whose behalf those customers are acting.

6. The institutions and persons subject to this Directive shall carry out such identification, even where the amount of the transaction is lower than the threshold laid down, wherever there is suspicion of money laundering.
7. The institutions and persons subject to this Directive shall not be subject to the identification requirements provided for in this Article where the customer is a credit or financial institution covered by this Directive.
8. Member States may provide that the identification requirements regarding transactions referred to in paragraphs 3 and 4 are fulfilled when it is established that the payment for the transaction is to be debited from an account opened in the customer's name with a credit institution subject to this Directive according to the requirements of paragraph 1.'

4. In Articles 4 and 5 the words 'credit and financial institutions' shall be replaced by 'the institutions and persons subject to this Directive'.

5. Article 6 shall be replaced by the following:

'Article 6

1. Member States shall ensure that the institutions and persons subject to this Directive and their directors and employees co-operate fully with the authorities responsible for combating money laundering:

- (a) by informing those authorities, on their own initiative, of any fact which might be an indication of money laundering,
- (b) by furnishing those authorities, at their request, with all necessary information, in accordance with the procedures established by the applicable legislation.

2. The information referred to in paragraph 1 shall be forwarded to the authorities responsible for combating money laundering of the Member State in whose territory the institution or person forwarding the information is situated. The person or persons designated by the institutions and persons in accordance with the procedures provided for in Article 11 (1) shall normally forward the information.

3. In the case of the independent legal professionals referred to in point 5 of Article 2a, Member States may designate as the authority referred to in paragraph 1 of this Article the bar association or appropriate self-regulatory body of the profession concerned and in such case shall lay down the appropriate forms of cooperation between them and the other authorities responsible for combating money laundering.

Member States shall not be obliged to apply the obligations laid down in paragraph 1 to such legal professionals with

regard to information they receive from a client in order to be able to represent him in legal proceedings. This derogation from the obligations laid down in paragraph 1 shall not cover any case in which there are grounds for suspecting that advice is being sought for the purpose of facilitating money laundering.

4. Information supplied to the authorities in accordance with paragraph 1 may be used only in connection with the combating of money laundering. However, Member States may provide that such information may also be used for other purposes.'

6. Article 7 shall be replaced by the following:

'Article 7

Member States shall ensure that the institutions and persons subject to this Directive refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the authorities referred to in Article 6. Those authorities may, under conditions determined by their national legislation, give instructions not to execute the operation. Where such a transaction is suspected of giving rise to money laundering and where to refrain in such manner is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected money-laundering operation, the institutions and persons concerned shall apprise the authorities immediately afterwards.'

7. In Article 8 the words 'Credit and financial institutions' shall be replaced by 'The institutions and persons subject to this Directive'.

8. Article 9 shall be replaced by the following:

'Article 9

The disclosure in good faith to the authorities responsible for combating money laundering by an institution or person subject to this Directive or by an employee or director of the information referred to in Articles 6 and 7 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the institution or person or its directors or employees in liability of any kind.'

9. In Article 10 the words 'credit or financial institutions' shall be replaced by 'the institutions and persons subject to this Directive'.

10. In Article 11 the words 'credit and financial institutions' shall be replaced by 'the institutions and persons subject to this Directive'.

11. Article 12 shall be replaced by the following:

'Article 12

1. Member States shall ensure that the provisions of this Directive are extended in whole or in part to professions and to categories of undertakings, other than the institutions and persons referred to in Article 2a, which engage in activities which are particularly likely to be used for money-laundering purposes.

2. In case of fraud, or corruption or any illegal activity damaging or likely to damage the European Communities' financial interests, the anti-money laundering authorities referred to under article 6 and, within its competences, the Commission, shall collaborate with each other for the purpose of preventing and detecting money laundering. To this end they shall exchange relevant information on suspicious transactions. Information thus exchanged shall be covered by rules of professional secrecy.

3. When independent legal professions are concerned, Member States may exempt bar associations and self-regulatory professional bodies from obligations under paragraph 2.'

Article 2

Three years after the adoption of this Directive the Commission shall carry out a particular examination, in the context of the report provided for in Article 17 of Directive 91/308/EEC, of aspects relating to the specific treatment of independent legal professionals, the identification of clients in non-face to face transactions and possible implications for electronic commerce.

Article 3

1. Member States shall bring into force the laws, regulations and administrative decisions necessary to comply with this Directive by 31 December 2001 at the latest.

2. Where Member States adopt these measures, 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 a reference shall be laid down by the Member States.

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

Article 4

This Directive is addressed to the Member States.

ANNEX

IDENTIFICATION OF CUSTOMERS (PHYSICAL PERSONS) BY CREDIT AND FINANCIAL INSTITUTIONS IN NON FACE-TO-FACE FINANCIAL OPERATIONS

Within the framework of the Directive, the following principles should apply to the identification procedures for non face-to-face financial operations:

- (i) The procedures should ensure appropriate identification of the customer.
- (ii) The procedures may apply provided there are no reasonable grounds to believe that face-to-face contact is being avoided in order to conceal the true identity of the customer and there is no suspicion of money laundering.
- (iii) The procedures should not apply to operations involving the use of cash.
- (iv) The internal control procedures stipulated in Article 11(1) of the Directive should take specific account of non-face-to-face operations.
- (v) When the counterpart of the institution undertaking the operation ('contracting institution') is a customer, identification may be carried out by the following procedures:
 - (a) Using the contracting institution's branch or representative office which is nearest the customer in order to carry out a face-to-face identification
 - (b) If the identification is carried out without a face-to-face contact with the customer:
 - A copy of the customer's official identification document or the official number of the identification document should be required. Special attention should be paid to the verification of the customer's address when this is indicated on the identification document (e.g. documents concerning the operation to be sent by registered mail with advice of receipt to the customer's address).

- The first payment of the operation should be carried out through an account opened in the customer's name with a credit institution located in the European Union or in the European Economic Area. States may allow payments carried out through reputable credit institutions established in third countries which apply equivalent anti money laundering standards.
 - The contracting institution should carefully verify that the identities of the holder of the account through which the payment is made and of the customer, as indicated in the identification document (or ascertained from the identification number) are one and the same. In the case of doubt in this regard, the contracting institution should contact the credit institution with which the account is opened in order to confirm the identity of the account holder. If the doubt still remains a certificate from the credit institution should be required attesting to the identity of the account holder and confirming that the identification was properly carried out and that the particulars have been registered according to the Directive.
- (c) In the case of certain insurance operations, identification requirements may be waived when the payment is 'to be debited from an account opened in the customer's name with a credit institution subject to this Directive' (Article 3(8)).
- (vi) When the counterpart of the contracting institution is another institution acting on behalf of a customer:
- (a) If the counterpart is located in the European Union or in the European Economic Area, identification of the customer by the contracting institution is not required. (Article 3(7) of the Directive).
 - (b) If the counterpart is located outside the European Union and the European Economic Area, the institution should check the identity of its counterpart (unless it is well known), by consulting a reliable financial directory. In the case of doubt in this regard, the institution should seek confirmation of its counterpart's identity from the third country supervisory authorities. The institution should also take 'reasonable measures to obtain information' on the customer of its counterpart (beneficial owner of the operation) (Article 3(5) of the Directive). These 'reasonable measures' could go from simply requesting the name and address of the customer, when the country applies equivalent identification requirements, to requesting a counterpart's certificate stating that the customer's identity has been properly verified and registered, when in the country in question the identification requirements are not equivalent.
- (vii) The above-mentioned procedures do not preclude the use of other ones which, in the opinion of the competent authorities, may provide equivalent safety for the identification in non-face-to-face financial operations.
-

Amended proposal for a European Parliament and Council Directive concerning the distance marketing of consumer financial services and amending Directives 97/7/EC and 98/27/EC ⁽¹⁾

(2000/C 177 E/04)

COM(1999) 385 final — 98/0245(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 23 July 1999)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 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 251 of the Treaty,

- (1) Whereas it is important, in the context of achieving the aims of the single market, to adopt measures designed to progressively consolidate this market and those measures must contribute to attaining a high level of consumer protection, in accordance with Articles 95 and 153 of the Treaty;
- (2) Whereas, both for consumers and suppliers of financial services, the distance marketing of financial services will constitute one of the main tangible results of the completion of the internal market;
- (3) Whereas, within the framework of the internal market, it is in the interest of consumers to have access without discrimination to the widest possible range of financial services available in the Community so that they can choose those that are best suited to their needs; whereas in order to safeguard freedom of choice, which is an essential consumer right, a high degree of consumer protection is required in order to enhance consumer confidence in distance selling;
- (4) Whereas it is essential to the smooth operation of the internal market for consumers to be able to negotiate and conclude contracts with a supplier established outside their country, regardless of whether the supplier is also established in the consumer's country of residence;
- (5) Whereas because of their intangible nature, financial services are particularly suited to distance selling; whereas the establishment of a legal framework governing the distance marketing of financial services

should increase consumer confidence in the use of new techniques for the distance marketing of financial services, such as electronic commerce;

- (6) Whereas Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts ⁽²⁾, lays down the main rules applicable to distance contracts for goods or services concluded between a supplier and a consumer; whereas, however, that Directive does not cover financial services;
- (7) Whereas, in the context of the analysis conducted by the Commission with a view to ascertaining the need for specific measures in this field, the Commission invited all the interested parties to transmit their comments, notably in connection with the preparation of its Green Paper entitled 'Financial Services — Meeting Consumers' Expectations' ⁽³⁾; whereas the consultations in this context showed that there is a need to strengthen consumer protection in this area; whereas the Commission therefore decided to present a specific proposal concerning the distance marketing of financial services ⁽⁴⁾;
- (8) Whereas the adoption by the Member States of conflicting or different consumer protection rules governing the distance marketing of consumer financial services would impede the functioning of the internal market and competition between firms in the market; whereas it is therefore necessary to enact common rules at Community level in this area, consistent with no reduction in overall consumer protection in any Member State;
- (9) Whereas, given the high level of consumer protection guaranteed by this Directive, with a view to ensuring the free movement of financial services, Member States may not adopt provisions other than those laid down in this Directive in the fields harmonised by this Directive;
- (10) Whereas this Directive covers all financial services liable to be provided at a distance; whereas, however, certain financial services are governed by specific provisions of Community law; whereas those specific provisions continue to apply to those financial services; whereas, however, it is advisable to lay down principles governing the distance marketing of such services;

⁽²⁾ OJ L 144, 4.6.1997, p. 19.

⁽³⁾ COM(96) 209 final, 22.5.1996.

⁽⁴⁾ Communication from the Commission 'Financial services: enhancing consumer confidence', COM(97) 309 final, 26.6.1997.

⁽¹⁾ OJ C 385, 11.12.1998, p. 10.

- (11) Whereas, in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community;
- (12) Whereas contracts negotiated at a distance involve the use of means of distance communication; whereas the various means of communication are used as part of a distance sales or service-provision scheme not involving the simultaneous presence of the supplier and the consumer; whereas the constant development of those means of communication requires principles to be defined that are valid even for those means that are not yet in widespread use; whereas, therefore, distance contracts are to be those the offer, negotiation and conclusion of which are carried out at a distance;
- (13) Whereas a single contract involving successive operations may be subject to different legal treatment in the different Member States, whereas, however, it is important that this Directive be applied in the same way in all the Member States; whereas, to this end, it is appropriate that this Directive should be considered to apply to the first of a series of successive operations, or to the first of a series of separate operations over a period of time which may be considered as forming a whole, irrespective of whether that operation or series of operations are the subject of a single contract or several successive contracts;
- (14) Whereas by covering a service-provision scheme organised by the financial services provider, this Directive aims to exclude from its scope services provided on a strictly occasional basis and outside a commercial structure dedicated to the conclusion of distance contracts;
- (15) Whereas the supplier is the person providing services at a distance; whereas this Directive should however also apply when one of the marketing stages involves an intermediary; whereas, having regard to the nature and degree of that involvement, the pertinent provisions of this Directive should apply to such an intermediary, irrespective of his legal status;
- (16) Whereas the use of means of distance communications must not lead to an unwarranted restriction on the information provided to the client; whereas in the interest of transparency this Directive lays down the requirements needed to ensure that an appropriate level of information is provided the consumer both before and after conclusion of the contract; whereas the consumer must receive, before conclusion of the contract, the prior information needed so as to properly appraise the financial service and hence make a well-informed choice; whereas the supplier must specify how long his offer applies as it stands;
- (16a) Whereas with a view to optimum protection of the consumer, it is important that the consumer should be adequately informed of the provisions of this Directive and of any codes of conduct existing in this area;
- (17) Whereas provision should be made for a right of withdrawal, without penalty and without having to furnish grounds;
- (18) Deleted
- (19) Whereas consumers should be protected against unsolicited services; whereas consumers should be exempt from any obligation in the case of unsolicited services, the absence of a reply not being construed as signifying consent on their part; whereas, however, this rule should be without prejudice to the tacit renewal of contracts validly concluded between the parties whenever the law of the Member States permits such tacit renewal;
- (20) Whereas Member States should take appropriate measures to effectively protect consumers who do not wish to be contacted through certain means of communication; whereas this Directive is without prejudice to the particular safeguards available to consumers under Community legislation concerning the protection of personal data and privacy;
- (21) Whereas, with a view to protecting consumers, it is important to make arrangements for resolving disputes; whereas there is a need for suitable and effective complaint and redress procedures in the Member States with a view to settling potential disputes between suppliers and consumers, by using, where appropriate, existing procedures;
- (22) Whereas, as regards consumer access to justice and in particular to courts and tribunals in the case of cross-border disputes, account should be taken of the Communication from the Commission to the Council and European Parliament entitled 'Towards greater effectiveness in the adoption and enforcement of decisions within the European Union' ⁽¹⁾;
- (23) Whereas Member States should encourage public or private bodies established with a view to settling disputes out of court to cooperate to in resolving cross-border disputes; whereas such cooperation could in particular entail allowing consumers to submit to extra-judicial bodies in the Member State of their residence complaints concerning suppliers established in other Member States;

⁽¹⁾ OJ C 33, 31.1.1998, p. 3.

(24) Whereas the Community and the Member States have entered into commitments in the context of the WTO General Agreement on Trade in Services (GATS) concerning the possibility for European consumers to purchase banking and investment services abroad; whereas the GATS entitles Member States to adopt measures for prudential reasons, including measures to protect investors, depositors, policy-holders and persons to whom a financial service is owed by the supplier of the financial service; whereas such measures should not impose restrictions going beyond what is required to ensure consumer protection;

(25) Deleted

(26) Whereas, in view of the adoption of this Directive, it is necessary to adapt the scope of Directive 97/7/EC and Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests ⁽¹⁾;

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

- (a) The object of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the distance marketing of consumer financial services.
- (b) In the case of contracts for financial services comprising successive operations or a series of separate operations performed over time, the provisions of this Directive shall apply only to the first operation, irrespective of whether those operations are deemed by national law to form part of a single contract or individual separate contracts.

Article 2

Definitions

For the purposes of this Directive:

- (a) 'distance contract': means any contract concerning financial services concluded between a supplier and a consumer under an organised distance sales or service-provision scheme run by the supplier, who, for the purpose of that contract, makes exclusive use of means of distance communication up to and including the time at which the contract is concluded;
- (b) 'financial service': means any banking, insurance, investment or payment service;
- (b1) 'real estate credit': means any credit, irrespective of any surety or bond attached thereto, mainly intended to permit the acquisition or maintenance of property rights

to a site or to a building to be constructed or under construction, or the renovation or improvement of a building;

- (c) 'supplier': means any natural or legal person who, acting in his commercial or professional capacity, is the actual provider of services subject to contracts covered by this Directive or acts as intermediary in the supply of those services or in the conclusion of a distance contract between those parties;
- (d) 'consumer': means any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business or profession;
- (e) 'means of distance communication': refers to any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the distance marketing of a service between those parties;
- (f) 'durable medium': means any instrument enabling the consumer to store information addressed personally and specifically to him and which is mainly contained on floppy disks, CD-ROMs, and the hard drive of the consumer's computer on which electronic mail is stored;
- (g) 'operator or supplier of a means of distance communication': means any public or private, natural or legal person whose trade, business or profession involves making one or more means of distance communication available to suppliers.

Article 3

Information of the consumer before conclusion of the contract

1. In good time before conclusion of the contract, consumers shall be provided with the following information:

- (a) the identity and address of the supplier and the identity and address of the representative of the supplier in the consumer's country of residence whom he can consult where necessary, if such a representative exists;
- (b) a description of the main characteristics of the financial service;
- (c) the total price of the financial service, including all taxes;
- (d) the arrangements for payment, delivery or performance of the contract;
- (e) the period for which the offer or the price remains valid;
- (f) when the price is liable to vary between the time the information is provided and the time the contract is concluded, an indication of this possibility and particulars allowing the consumer to verify the price at the time of conclusion of the contract;

⁽¹⁾ OJ L 166, 11.6.1998, p. 51.

- (g) the cost of using the means of distance communication, where it is calculated other than at the basic rate;
- (h) the existence and duration of a right of withdrawal within the meaning of Article 4 and the conditions and procedures governing its exercise;
- (i) the absence of a right of withdrawal for the financial services referred to in Article 4(1), sentence 2;
- (j) the amount referred to in Article 5(1)(a) or, in the case referred to in Article 5(1)(b), the amount used for calculating the price to be paid by the consumer if he exercises his right of withdrawal;
- (k) where appropriate, the minimum duration of the contract, in the case of financial services to be performed permanently or recurrently;
- (l) information on cancelling the contract;
- (m) the law applicable to the contract, when there is a contractual clause which makes it possible to choose a law other than that of the consumer's place of residence;
- (n) the court having jurisdiction in the event of a dispute, when there is a clause concerning the choice of jurisdiction vesting competence in a court other than that of the consumer's place of residence in the event of a dispute; this provision is without prejudice to the Brussels Convention;
- (o) reference to the supervisory authority on whom the supplier depends, when he is subject to supervision;
- (p) out-of-court complaint and redress procedures.

However, as regards:

- the services covered by Directive 92/49/EEC, and without prejudice to Article 43 of that Directive, only the information referred to in (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (p) must be provided;
- the services covered by Directive 92/96/EEC, and without prejudice to Article 31 and Annex 2 of that Directive, only the information referred to in (c), (e), (f), (g), (j) and (o) must be provided;
- the financial services covered by Directive 85/611/EEC, and without prejudice to Articles 27 to 35 and 44 to 47 and Annexes A and B of that Directive, only the information referred to in (g), (i), (m), (n), (o) and (p) must be provided;
- the financial services covered by Directive 89/298/EEC, and without prejudice to Articles 7 to 18 and 21 of that Directive, only the information referred to in (g), (i), (m), (n), (o) and (p) must be provided;
- the services covered by Directive 93/22/EEC and, without prejudice to Article 11 of that Directive, only the

information referred to in (e), (f), (g), (h), (i), (j), (m), (n), (o) and (p) must be provided.

2. The information referred to in paragraph 1, whose commercial purpose must be clearly apparent, must be provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used and must in particular comply with the principles of fairness in commercial transactions and the principles that govern the protection of persons who are legally incapable pursuant to national law, such as minors.

3. Deleted

4. Deleted

Article 3a

Communication of the contractual terms and conditions and of the prior information

1. The supplier must communicate to the consumer all the contractual terms and conditions on paper or on a durable medium, including the information referred to in Article 3(1), presented in a clear and comprehensible manner, once the contract has been concluded.

2. The supplier shall be exempt from this obligation when the contractual terms and conditions and the information referred to in Article 3(1) have been provided to the consumer prior to conclusion of the contract on paper or on another durable medium.

3. The choice of medium shall be determined by agreement between the parties.

Article 4

Right of withdrawal after conclusion of the contract

1. Member States shall provide that consumers have a right of withdrawal of 14 to 30 days, depending on the nature of the financial services concerned, without having to indicate grounds and without penalty:

(a) when the contractual terms and conditions and the information referred to in Article 3(1) have been provided to the consumer prior to conclusion of the contract, in compliance with Article 3(a)(2), from the date of conclusion of the contract;

(b) when the contract has been concluded at the express request of the consumer before the contractual terms and conditions and the information referred to in Article 3(1) have been communicated to him, from the date of receipt of these particulars or the last of such particulars, in compliance with Article 3(a)(1).

When the supplier complies with the withdrawal period provided for by the legislation of the Member State in which he is established, he shall not be bound by a different period in the Member State in which the consumer resides.

1(a) The right of withdrawal shall not apply to contracts concerning:

- (a) foreign exchange services;
- (b) the reception, transmission and/or execution of orders related to, and services in respect of or related to the following financial products:
 - money market instruments;
 - transferable securities;
 - OCITS and other collective investment schemes;
 - financial futures and options;
 - exchange and interest rate instruments whose price depends on fluctuations in the financial market outside the supplier's control;
- (c) non-life insurance for a period of less than two months;
- (d) contracts whose performance has been fully completed before the consumer exercises his right of withdrawal.

1(b) In the case of real estate credit, Member States may provide that the consumer may not rely on the right of withdrawal when:

- with his consent, the amount borrowed has been transferred to the seller of the property or to his representative;
- when a notarial act relating to the real estate credit to which he is party has been validly and regularly recorded.

However, in the case of credit funded by bonds secured against real estate, Member States may provide that the consumer shall not benefit from the right of withdrawal provided for in paragraph 1.

2. Without prejudice to the right of withdrawal, when the consumer has been unfairly induced by the supplier to conclude the contract, this contract may be annulled, with all the attendant legal consequences in terms of the law applicable to the contract, without prejudice to the consumer's right to seek compensation for the harm he has suffered under national law.

When suppliers communicate objective information to the consumer on prices of financial services that depend on market fluctuations, this shall not be considered as an unfair inducement.

3. The consumer shall exercise his right of withdrawal by notifying the supplier to this effect on paper or on a durable medium available and accessible to the supplier.

4. Deleted

5. The other legal effects and conditions of withdrawal shall be governed by the law applicable to the contract.

Article 5

Performance of the contract and payment of the service provided before withdrawal

-1. The supplier may not commence to perform the contract before expiry of the time limit provided for in Article 4(1) without the consumer's express consent.

1. When the consumer exercises his right of withdrawal under Article 4(1) he may be required to pay, without any undue delay, only either:

- (a) a lump sum corresponding to the price of the financial service effectively provided by the supplier before exercise of the right of withdrawal, independently of the moment of withdrawal;
- (b) or, when the cost of the financial service effectively provided by the supplier depends on the time at which the right of withdrawal is exercised, an amount enabling the consumer to calculate the price to be paid on a pro rata basis for the period between the day on which the contact was concluded and the day on which he exercises his right of withdrawal.

In either (a) or (b), the amount payable may not be such that it could be construed as a penalty.

2. Unless he can prove that the consumer was duly informed about the price, in conformity with Article 3(1)(j), the supplier may not require the consumer to pay any amount where he exercises his right of withdrawal.

3. The supplier shall, without any undue delay and no later than 30 days, return to the consumer any sums he has received from him on conclusion of the distance contract, except for the sums referred to in paragraph 1.

Article 6

Deleted

Article 7

Deleted

Article 8

Unavailability of the service

1. Without prejudice to the rules of civil law of the Member States pertaining to the non-performance of contracts, if the financial service which is the subject of the contract is partly or totally unavailable, the supplier shall, without any undue delay, inform the consumer to this effect.

2. If the financial service is totally unavailable, the supplier shall, without any undue delay and no later than 30 days, reimburse any sum paid by the consumer.

3. If the financial service is only partly available, the contract may only be performed with the express consent of the consumer and the supplier.

Failing this express agreement, the supplier shall without any undue delay and no later than 30 days, return to the consumer any sums he may have paid.

Where the service is only partly performed, the supplier shall return to the consumer all sums relating to the part of the service that has not been performed, without any undue delay and no later than 30 days.

Article 8a

Payment by card

Member States shall take appropriate measures to ensure that:

- consumers can request the cancellation of a payment in the case of fraudulent use of their payment card in transactions falling within this Directive;
- in the case of fraudulent use, the amounts paid are credited or that the consumer is reimbursed.

Article 8b

Return of original documents

In the event of the consumer exercising his rights pursuant to Article 4(1) or in the cases provided for in Article 8, the consumer shall, without any undue delay, return to the supplier any original contract document bearing the supplier's signature communicated to him on conclusion of the contract.

Article 9

Unsolicited services

Without prejudice to the legal provisions of the Member States on the tacit renewal of contracts, when such rules permit tacit renewal, Member States shall take the necessary measures to:

- prohibit the supply of financial services to a consumer without a prior request on his part, when this supply includes a request for immediate or deferred payment;
- exempt the consumer from any obligation in the event of unsolicited supplies, the absence of a reply not constituting consent.

Article 10

Unsolicited communications

1. The use by a supplier of the following techniques shall require the consumer's prior consent:

- automated calling systems without human intervention (automatic calling machines);
- fax machines.

2. Member States shall ensure that means of distance communication other than those referred to in paragraph 1, when they allow individual communications

- (a) shall not be authorised unless the consent of the consumers concerned has been obtained or
- (b) may only be used if the consumer has not expressed his manifest objection.

3. The measures referred to in paragraphs 1 and 2 shall not entail costs for consumers.

4. In the case of telephone communications, the identity of the supplier and the commercial purpose of the call shall be made explicitly clear at the beginning of any conversation with the consumer.

5. Member States shall provide for appropriate penalties in the event of the supplier's failure to comply with Article 10.

They may provide for this purpose notably that the consumer may cancel the contract at any time, free of charge and without penalties.

Article 11

Imperative nature of the Directive's provisions

- 1. Consumers may not waive the rights conferred on them by this Directive.
- 2. Deleted
- 3. Consumers may not be deprived of the protection granted by this Directive where the law governing the contract is that of a third country if the consumer is resident on the territory of a Member State and the contract has a close link with the Community.

Article 12

Judicial and administrative redress

1. Member States shall ensure that adequate and effective complaints and redress procedures for the settlement of disputes between suppliers and consumers are put in place, using existing procedures where appropriate.

2. The procedures referred to in paragraph 1 shall include provisions whereby one or more of the following bodies, as determined by national law, may take action under national law before the courts or competent administrative bodies to ensure that the national provisions for the implementation of this directive are applied:

- (a) public bodies or their representatives;
- (b) consumer organisations having a legitimate interest in protecting consumers;
- (c) professional organisations having a legitimate interest in acting.

3. Deleted

4. Member States shall take the measures necessary to ensure that operators and suppliers of means of distance communication put an end to practices that have been declared to be contrary to this Directive, on the basis of a judicial decision, an administrative decision or a decision issued by a supervisory authority notified to them, where those operators or suppliers are in a position to do so.

Article 12a

Out-of-court redress

Member States shall encourage bodies established with a view to the out-of-court settlement of disputes to cooperate in the resolution of cross-border disputes.

Article 13

Burden of proof

The burden of proof in respect of the supplier's obligations to inform the consumer and the consumer's consent to conclusion of the contract and, where appropriate, its performance, shall lie with the supplier.

Any contractual term or condition providing that the burden of proof of the respect by the supplier of all or part of the obligations incumbent on him pursuant to this Directive should lie with the consumer shall be an unfair term within the meaning of Council Directive 93/13/EEC⁽¹⁾.

Article 14

Directive 90/619/EEC

Deleted

Article 15

Directive 97/7/EC

Directive 97/7/EC is amended as follows:

1. The first indent of Article 3(1) is replaced by the following:

— relating to financial services to which Directive .../.../EC of the European Parliament and of the Council (*) applies.

(*) OJ L ...'

2. Annex II is deleted.

Article 16

Directive 98/27/EC

The following point 10 is added to the Annex of Directive 98/27/EC:

- '10. Directive .../.../EC of the European Parliament and of the Council on the distance marketing of consumer financial services (*)

(*) OJ L ...'

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2002 at the latest. They shall forthwith inform the Commission thereof.

At the time of their official publication, these provisions shall refer to this Directive or shall be accompanied by such a reference. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main laws, regulations or administrative provisions which they adopt in the field governed by this Directive. In that communication, Member States shall provide a table showing the national provisions corresponding to each article of this Directive.

Article 18

Entry into force

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

Article 19

Addressees

This Directive is addressed to the Member States.

⁽¹⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29.

Proposal for a Council Regulation (EC) amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas

(2000/C 177 E/05)

COM(1999) 582 final — 1999/0235(CNS)

(Submitted by the Commission on 15 November 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Having regard to the opinion of the Committee of the Regions,

Whereas:

(1) There have been numerous close contacts with supplier countries and other interested parties to settle the disputes arising from the import regime established by Regulation (EEC) No 404/93, as amended by Regulation (EC) No 1637/98, and to take account of the conclusions of the special group set up under the dispute settlement system of the World Trade Organisation (WTO).

(2) Analysis of all the options presented by the Commission suggests that establishment in the medium term of an import system founded on the application of a customs duty at an appropriate rate and application of a preferential tariff to imports from ACP countries provides the best guarantees, firstly of achieving the objectives of the common organisation of the market as regards Community production and consumer demand, secondly of complying with the rules on international trade, and thirdly of preventing further disputes.

(3) However, such a system must be introduced upon completion of negotiations with the Community's partners in accordance with WTO procedures, in particular Article XXVIII of the General Agreement on Tariffs and Trade (GATT).

(4) Until the entry into force of that regime, the Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of (850 000) tonnes should be opened, also for all origins. Under this latter tariff quota, the common customs tariff rate should be reduced in accordance with the most appropriate method, and the preferential tariff granted to the ACP countries must be applied.

(5) In view of the contractual obligations towards the ACP countries and the need to guarantee them proper conditions of competition, application to imports of bananas originating in those countries of a tariff preference of EUR 275 per tonne would allow the trade flows in question to be maintained. This will entail in particular the application to such imports of zero duty under the first two tariff quotas, and a cut of EUR 275 in the duty to be paid under the third tariff quota after application of the aforementioned reduction.

(6) The Commission should be authorised to open negotiations with supplier countries having a substantial interest in supplying the Community market to endeavour to achieve a negotiated allocation of the first two tariff quotas. The Commission should also be granted authority to lay down rules for the management of the tariff quotas established by this Regulation.

(7) Provision should be made for the additional tariff quota of 353 000 tonnes to be modified to take account of any increased Community demand found when a supply balance is drawn up. Provision should also be made for suitable specific action to be taken in response to exceptional circumstances liable to affect supply of the Community market.

(8) Accordingly, amendments should be made to Title IV of Regulation (EEC) No 404/93,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 404/93 is hereby amended as follows:

1. Articles 16 to 20 of Title IV are replaced by the following:

Article 16

1. Articles 16 to 20 of this Title shall apply to imports of fresh products falling within CN code ex 0803 00 19 up to the entry into force of the rate of the common customs tariff for those products, no later than 1 January 2006, established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade.

2. Until the entry into force of the rate referred to in paragraph 1, imports of the fresh products referred to in paragraph 1 shall be under the tariff quotas opened by Article 18.

Article 17

To the extent necessary, importation of bananas into the Community shall be subject to submission of an import licence, to be issued by Member States to any interested parties irrespective of their place of establishment in the Community and without prejudice to specific provisions adopted for the application of Articles 18 and 19.

Such import licences shall be valid throughout the Community. Except where derogations are adopted under the procedure laid down in Article 27, the issue of licences shall be subject to lodging of a security against a commitment to import on the terms of this Regulation during the period of the licence's validity. Except in cases of *force majeure* the security shall be wholly or partly forfeit if the operation is not or is only partly carried out within the time allowed.

Article 18

1. Each year from 1 January the following tariff quotas shall be opened:

- (a) a tariff quota of 2 200 000 tonnes net weight, called "quota A";
- (b) an additional tariff quota of 353 000 tonnes net weight, called "quota B";
- (c) an autonomous tariff quota of 850 000 tonnes net weight, called "quota C".

These tariff quotas shall be open for imports of products originating in all third countries.

The Commission may, on the basis of an agreement with World Trade Organisation contracting parties with a substantial interest in the supply of bananas, allocate tariff quotas "A" and "B" among supplier countries.

2. Imports under tariff quotas "A" and "B" shall be subject to customs duty of EUR 75 per tonne.

3. By derogation from Article 15, imports under tariff quota "C" shall be subject to the duty referred to in that Article less a reduction which may be determined by tender.

4. A tariff preference of EUR 275 per tonne shall apply to imports originating in ACP countries both under and outside the tariff quotas.

5. The duty rates set in this Article shall be converted into national currency at the rates applicable for the products in question for the purposes of the common customs tariff.

6. The additional tariff quota provided for in paragraph 1(b) may be increased if demand in the Community increases as indicated by a balance sheet of production, consumption, imports and exports.

The balance sheet shall be adopted and the tariff quota increased under the procedure set out in Article 27.

7. Where supply of the Community market is subject to exceptional circumstances affecting production or importation, the Commission shall adopt the specific measures necessary under the procedure set out in Article 27.

In such cases the additional tariff quota "B" may be adjusted on the basis of the balance sheet referred to in paragraph 6. The specific measures may derogate from the rules adopted under Article 19(1). They must not discriminate between third countries.

8. Bananas re-exported from the Community shall not be counted against the corresponding tariff quotas.

Article 19

1. The tariff quotas may be managed in accordance with the method based on taking account of traditional trade flows ("traditional/newcomers") and/or other methods.

2. The method adopted shall take account as appropriate of the need to maintain the equilibrium of supply to the Community market.

Article 20

The Commission shall adopt provisions to implement this Title under the procedure set out in Article 27. Their scope shall include:

- (a) rules on the management of the tariff quotas referred to in Article 18;
- (b) where required, guarantee of the nature and origin of the products;
- (c) measures needed to ensure respect for obligations stemming from agreements concluded by the Community under Article 300 of the Treaty.

2. The seventh indent of Article 29 is replaced by the following:

‘— quantities of Community and ACP bananas and bananas from third countries other than ACP countries marketed in their territory’.

3. Article 32 is deleted.

4. The Annex is deleted.

Article 2

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

It shall apply from 1 April 2000.

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

Amended proposal for a European Parliament and Council Decision setting up a Community framework for cooperation in the field of accidental marine pollution ⁽¹⁾

(2000/C 177 E/06)

(Text with EEA relevance)

COM(1999) 641 final — 98/0350(COD)

(Submitted by the Commission pursuant to Article 189a(2) of the EC Treaty on 1 December 1999)

⁽¹⁾ OJ C 25, 30.1.1999, p. 20.

INITIAL PROPOSAL

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN UNION,

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s (1) thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 175 (1) thereof,

Having regard to the proposal from the Commission,

Unchanged

Having regard to the opinion of the European Parliament,

Deleted

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

Unchanged

Having regard to the opinion of the Committee of the Regions,

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

(1) Whereas the actions taken by the Community in this field since 1978 have made it possible progressively to develop cooperation between the Member States within a Community Action Programme; whereas the resolution and decisions adopted since 1978 ⁽¹⁾ constitute the basis for this cooperation.

Unchanged

(2) Whereas the Community Information System has served the purpose of making available to the competent authorities in the Member States the data required for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea in large quantities; whereas the Information System will be simplified by the use of a modern automatic data processing system; whereas the need for rapid and efficient exchange of information requires an appropriate linguistic regime.

(3) Whereas the Community Task Force and other actions within the Community Action Programme have provided practical assistance to operational authorities during marine pollution emergencies and promoted cooperation and preparedness for efficient response to accidents.

⁽¹⁾ OJ C 162, 8.7.1978, p. 1; OJ L 355, 10.12.1981, p. 52; OJ L 77, 22.3.1986, p. 33; OJ L 158, 25.6.1988, p. 32.

INITIAL PROPOSAL

- (4) Whereas the Community programme of policy and action in relation to the environment and sustainable development ⁽¹⁾ presented by the Commission foresees that the Community's activities will be stepped up in particular in the field of environmental emergencies which includes accidental marine pollution.
- (6) Whereas the Community cooperation in the field of accidental marine pollution, by taking action against the risks, helps to achieve the objectives of the Treaty by promoting solidarity between Member States and contributing, pursuant to Article 130r of the Treaty, to preserving and protecting the environment, including human health.
- (10) Whereas the establishment of a Community framework for cooperation providing support measures will help to develop cooperation in the field of accidental marine pollution even more efficiently; whereas such a framework for cooperation should be based to a large extent on experience gained since 1978 in this field.
- (11) Whereas a Community framework for cooperation will also increase transparency as well as consolidate and strengthen the different actions in continued pursuit of the objectives of the Treaty.

AMENDED PROPOSAL

- (4) Whereas the Community programme of policy and action in relation to the environment and sustainable development ⁽¹⁾ presented by the Commission foresees that the Community's activities will be stepped up in particular in the field of environmental emergencies which includes accidental marine pollution and operational spills.
- (5) Whereas the proposal for a directive on port reception facilities for ship-generated waste and cargo residues will play, once it is adopted, a major role in the context of operational spills.
- (6) Whereas the Community cooperation in the field of accidental marine pollution, by taking action against the risks, helps to achieve the objectives of the Treaty by promoting solidarity between Member States and contributing, pursuant to Article 174 of the Treaty, to preserving and protecting the environment, including human health.
- (7) Whereas 'accidental marine pollution' should be defined to include, but not be limited to, all releases of harmful substances into the marine environment, whether civilian or military, either directly at or into the sea, or from the shoreline, or river estuaries, or through releases from materials previously dumped at sea.
- (8) Whereas 'harmful substances' should be defined to include but not be limited to all materials covered by the IMDG (International Maritime Dangerous Goods) code, and releases from dumped munitions.
- (9) Whereas particular attention should be devoted to the relevant conventions and/or agreements covering European seas.

Unchanged

⁽¹⁾ OJ C 138, 17.5.1993, p. 5.

⁽¹⁾ OJ C 138, 17.5.1993, p. 5.

INITIAL PROPOSAL

AMENDED PROPOSAL

- (12) Whereas action to provide information and prepare those responsible for and involved in dealing with accidental marine pollution in the Member States is important and increases the degree of preparedness for accidents and also contributes to lessening the risks.
- (13) Whereas it is also important to undertake Community action to improve techniques and methods of response and rehabilitation after emergencies.
- (14) Whereas the provision of operational support in emergency situations to Member States and facilitating the dissemination of experience from such situations among Member States has proved to be of significant value.
- (15) Whereas an advisory committee on accidental marine pollution will assist the Commission in managing the framework for cooperation; whereas the Commission may also refer other matters relating to accidental marine pollution to this committee.
- (16) Whereas the provisions of this Decision take over, in particular, the action programme set up through the Council Resolution of 26 June 1978 and the Community Information System established through Council Decision of 6 March 1986; whereas that Council Decision should therefore be repealed from the date on which this Decision enters into force,

HAVE ADOPTED THIS DECISION:

Article 1

1. A Community framework for cooperation in the field of accidental marine pollution (hereinafter called 'the framework for cooperation') is hereby established for the period 1 January 2000 to 31 December 2004.

2. The framework for cooperation is intended to support and supplement Member States' efforts at national, regional and local level for the protection of the marine environment, human health, and coastlines against the risks for accidental pollution at sea and operational spills.

2. The framework for cooperation is intended to support and supplement Member States' efforts at national, regional and local level for the protection of the marine environment, human health, and coastlines against the risks for accidental pollution at sea and operational spills, including releases from dumped munitions.

'Accidental marine pollution' should be defined to include, but not be limited to, all releases of harmful substances into the marine environment, whether civilian or military, either directly at or into the sea, or from the shoreline, or river estuaries, or through releases from materials previously dumped at sea.

INITIAL PROPOSAL

3. The aim of the framework for cooperation is to improve capabilities of the Member States for response in case of incidents involving spills or imminent threats of spills of oil or other harmful substances at sea and also to contribute to the prevention of the risks. The framework for cooperation is further intended to create the conditions for and facilitate efficient mutual assistance and cooperation between Member States in this field.

4. Within this framework for cooperation, a Community Information System with the purpose of exchanging data for the preparedness for and response to accidental marine pollution, including operational spills, is established. The system will consist of at least the components set out in Annex I.

Article 2

1. The Commission shall implement the actions under the framework for cooperation.

2. A three-year rolling plan to implement the actions under the framework for cooperation, to be reviewed annually, shall be adopted, in accordance with the procedure laid down in Article 4 and on the basis *inter alia* of the information supplied by Member States to the Commission. The Commission may, where necessary, arrange additional actions to those under the framework for cooperation. Such additional actions shall be assessed in the light of the priorities set and the financial resources available.

3. Actions under the framework for cooperation and financial arrangements for Community contribution are set out in Annex II.

Article 3

1. The rolling plan to implement the actions under the framework for cooperation shall contain the individual actions to be undertaken.

2. Individual actions shall be selected primarily on the basis of the following criteria:

- (a) contribution to providing information and preparing those responsible for and involved in dealing with accidental marine pollution and operational spills, in the Member States, in order to increase the degree of preparedness and contribute to preventing the risks;
- (b) contribution to improving techniques and methods of response and rehabilitation after emergencies;
- (c) contribution to providing operational support, by mobilising experts mainly belonging to the Community Task Force, in emergency situations to Member States and to disseminating experience from such situations among Member States;

AMENDED PROPOSAL

The framework for cooperation should also facilitate cooperation between Member States to ensure that financial damage can be claimed in accordance with the polluter-pays-principle.

4. Within this framework for cooperation, a Community Information System with the purpose of exchanging data for the preparedness for and response to accidental marine pollution, including operational spills and munitions dump zones, is established. The system will consist of at least the components set out in Annex I.

Unchanged

- (b) contribution to improving techniques and methods of response and rehabilitation after emergencies, including exchange of information between port authorities;

INITIAL PROPOSAL

AMENDED PROPOSAL

3. Each individual action shall be implemented in close cooperation with the competent authorities at national, regional and local levels in the Member States.

(ca) contribution to providing better public information to help clarify risks and relaying accident information;

(cb) contribution to strengthening the integration of risk and response with other local agencies including habitat protection bodies.

Unchanged

Article 4

1. For the implementation of the actions under the framework for cooperation, the Commission shall be assisted by an advisory committee composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the individual actions to be undertaken. The committee shall deliver its opinion on the draft, within a time limit, which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee and shall inform the committee of the manner in which its opinion has been taken into account.

2. The Commission may also refer other matters relating to accidental marine pollution to the advisory committee.

Article 5

The Commission shall evaluate the implementation of the framework for cooperation at mid term and before its end, and report by 30 September 2002 and 31 March 2004 to the Council and the European Parliament.

Article 6

The Council Decision of 6 March 1986 establishing a Community Information System for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea, as last amended, shall be repealed on the entry into force of this Decision.

Article 7

This Decision shall apply with effect from 1 January 2000.

Article 8

This Decision is addressed to the Member States.

ANNEX I

COMPONENTS OF THE COMMUNITY INFORMATION SYSTEM

INITIAL PROPOSAL

AMENDED PROPOSAL

The Community Information System will use a modern automatic data processing system. On the Internet site, there will be general background information at Community level on a Community Home Page and, on National Home Pages, information related to the national intervention resources available.

Separately, a printed part of the system will be maintained in the form of a Community operational loose-leaf booklet with information on emergency management in each Member State.

1. Each Member State, within six months from the date the Decision enters into force, shall:

- (a) appoint the authority or authorities responsible of the management of the national part of the system, and inform the Commission thereof,
- (b) open a web site to be connected with the whole system through the Community general access page of the system.

2. The Commission will open a web site for the purpose of a general access page of the system and a Community page.

3. Each Member State shall fill, in its National Home Page and within six months from the date the Decision enters into force, at least, the following information:

(a) a concise view of national structures and of the links between national authorities in the field of accidental marine pollution,

(b) the inventory of main means for emergency response and clean-up from public and private sectors. This inventory will contain data on:

- number and qualification of the specialist staff,
- mechanical resources for recovering hydrocarbons discharged at sea and preventing or combating coastal pollution, as well as on the specialist staff that will utilise these resources,
- chemical and biological resources for combating pollution at sea and cleaning up coasts, as well as on the specialist staff that utilise these resources,

— strike teams,

— ships and aircraft equipped for combating pollution,

(a) a concise view of national structures and of the links between national authorities in the field of accidental marine pollution and operational spills areas,

Unchanged

— mechanical resources for recovering hydrocarbons discharged at sea and preventing or combating sea or coastal pollution from oil spills and other harmful substances, as well as on the specialist staff that will utilise these resources,

— chemical and biological resources for combating pollution at sea and cleaning up coasts, rehabilitation expertise, as well as on the specialist staff that utilise these resources,

Unchanged

INITIAL PROPOSAL

AMENDED PROPOSAL

-
- mobile resources for temporary storage of recovered hydrocarbons and other harmful substances,
 - systems for lightening oil-tankers,
- (c) the location of stockpiles or equipment,
- (d) the conditions for offering assistance to other Member States.
4. Each Member State shall up-date its National Home Page, specified in paragraph 3, as soon as changes have occurred or at least each year in January.
5. Each Member State shall provide the Commission with its information on operational emergency management to be included in the Community operational loose-leaf booklet, including operational procedures for mobilisation and operational contact points with their references, within 6 months from the date the Decision enters into force.
6. Each Member State shall notify to the Commission at the earliest opportunity any change related to the information contained in the loose-leaf booklet.
7. The Commission shall make available to each Member States a copy of the loose-leaf booklet and shall provide any updating to the Member States.
-

- an emergency number for public use,
- (ba) list of munitions dump sites,

Unchanged

ANNEX II

FINANCIAL ARRANGEMENTS FOR THE COMMUNITY CONTRIBUTION

ORIGINAL TABLE

Action	Financing arrangements
A. Action in training and information	
1. <i>Courses and workshops</i> ⁽¹⁾	
<p>Organisation of courses and workshops for the national, regional and local officials in Member States and others involved to ensure that the competent services respond rapidly and efficiently.</p>	<p>Maximum Community financial contribution: 75 % of the total cost of the action with a ceiling of ECU 75 000 per action.</p>
2. <i>Exchange of experts</i>	
<p>Organisation of the secondment of experts to another Member State in order to allow the experts to gain experience or appraise different techniques used or to study the approaches taken within other emergency services or other relevant bodies.</p> <p>Organisation of exchanges of Member States' experts, specialists and technicians enabling them to present or follow short training courses or modules in another Member State.</p>	<p>Maximum Community financial contribution: 75 % of the experts' travel and subsistence expenses and 100 % of the costs of coordinating the system.</p>
3. <i>Exercises</i>	
<p>The exercises are intended to compare methods, to stimulate cooperation between Member States and to back up progress in and to coordinate the national emergency services.</p>	<p>Maximum Community financial contribution: 50 % of the costs of participation of observers from other Member States and for organising associated workshops, preparing the exercise, producing a final report, etc.</p>
4. <i>Community Information System</i>	
<p>Development and maintenance of a modern computerised information system to help the national authorities dealing with accidental marine pollution by providing the information needed for emergency management.</p>	<p>100 % financing of the Commission part of the system.</p>
B. Action for improving techniques and methods of response and rehabilitation (pilot project) ⁽¹⁾	
<p>Projects designed to increase the Member States' capacity for response and rehabilitation. These projects are aimed mainly at improving means, techniques and procedures. Their scope shall interest all or several Member States, and could include projects for the implementation of new technologies related to accidental marine pollution. Projects involving two or more Member States will be encouraged.</p>	<p>Maximum Community financial contribution 50 % of the total cost of each project with a ceiling of ECU 150 000.</p>
C. Support and Information actions	
1. <i>Environment impact</i>	
<p>Actions to support surveys of the environmental effects after an incident and to largely disseminate their results and the experience acquired to the other Member States.</p>	<p>Maximum Community financial contribution: 50 % of the total cost of each action.</p>

Action	Financing arrangements
<p>2. <i>Conferences and events</i> ⁽¹⁾</p> <p>Conferences and other marine pollution events open to a large audience, in particular when they involve several Member States.</p>	<p>Maximum Community financial contribution: 30 % of the total cost of the action with a ceiling of ECU 50 000.</p>
<p>3. <i>Other support actions</i> ⁽¹⁾</p> <p>Actions for defining the state of the art, for the development of principles and guidance for important aspects of the accidental marine pollution and operational spills and for the evaluations of the framework for cooperation.</p>	<p>100 % financing.</p>
<p>4. <i>Information</i></p> <p>Publications, exhibition material and other information to the public on the Community cooperation in the field of accidental marine pollution.</p>	<p>100 % financing.</p>
<p>D. Mobilization of expertise</p> <p>Action for mobilisation of experts belonging to the Community Task Force to intervene in the event of an emergency situation to reinforce the system set up by the authorities of a Member State or a third country facing the emergency and for provision of an expert on scene to coordinate observers from other Member States.</p>	<p>Community financial contribution: 100 % of the cost for the experts' missions.</p>

⁽¹⁾ The only eligible actions are those interesting all Member States or a significant number of them.

AMENDED TABLE

Action	Financing arrangements
<p>A. Action in training and information</p>	
<p>1. <i>Courses and workshops</i> ⁽¹⁾</p> <p>Organisation of courses and workshops for the national, regional and local officials in Member States and others involved to ensure that the competent services respond rapidly and efficiently.</p>	<p>Maximum Community financial contribution: 75 % of the total cost of the action with a ceiling of ECU 75 000 per action.</p>
<p>2. <i>Exchange of experts</i></p> <p>Organisation of the secondment of experts to another Member State in order to allow the experts to gain experience or appraise different techniques used or to study the approaches taken within other emergency services or other relevant bodies <u>such as non-governmental organisations with specialist expertise in accidental marine pollution.</u></p> <p>Organisation of exchanges of Member States' experts, specialists and technicians enabling them to present or follow short training courses or modules in another Member State.</p>	<p>Maximum Community financial contribution: 75 % of the experts' travel and subsistence expenses and 100 % of the costs of coordinating the system.</p>
<p>3. <i>Exercises</i></p> <p>The exercises are intended to compare methods, to stimulate cooperation between Member States and to back up progress in and to coordinate the national emergency services.</p>	<p>Maximum Community financial contribution: 50 % of the costs of participation of observers from other Member States and for organising associated workshops, preparing the exercise, producing a final report, etc.</p>
<p>4. <i>Community Information System</i></p> <p>Development and maintenance of a modern computerised information system to help the national authorities dealing with accidental marine, <u>and operational spills</u> pollution by providing the information needed for emergency management.</p>	<p>100 % financing of the Commission part of the system.</p>
<p>B. Action for improving techniques and methods of response and rehabilitation (pilot projects). ⁽¹⁾</p>	
<p>Projects designed to increase the Member States' capacity for response and rehabilitation. These projects are aimed mainly at improving means, techniques and procedures. Their scope shall interest all or several Member States, and could include projects for the implementation of new technologies related to accidental marine pollution, <u>and operational spills.</u> Projects involving two or more Member States will be encouraged.</p>	<p>Maximum Community financial contribution 50 % of the total cost of each project with a ceiling of ECU 150 000.</p>
<p>C. Support and Information actions</p>	
<p>1. <i>Environment impact</i></p> <p>Actions to support surveys of the environmental effects after an incident <u>evaluate the preventive and remedial measures taken</u> and to largely disseminate their results and the experience acquired to the other Member States.</p>	<p>Maximum Community financial contribution: 50 % of the total cost of each action.</p>

Action	Financing arrangements
<p>2. <i>Conferences and events</i> ⁽¹⁾</p> <p>Conferences and other marine pollution events open to a large audience, in particular when they involve several Member States.</p>	<p>Maximum Community financial contribution: 30 % of the total cost of the action with a ceiling of ECU 50 000.</p>
<p>3. <i>Other support actions</i> ⁽¹⁾</p> <p>Actions for defining the state of the art, for the development of principles and guidance for important aspects of the accidental marine pollution and operational spills and for the evaluations of the framework for cooperation.</p>	<p>100 % financing.</p>
<p>4. <i>Information</i></p> <p>Publications, exhibition material and other information to the public on the Community cooperation in the field of accidental marine pollution, <u>and operational spills.</u></p>	<p>100 % financing.</p>
<p>D. Mobilization of expertise</p> <p>Action for mobilisation of experts belonging to the Community Task Force to intervene in the event of an emergency situation to reinforce the system set up by the authorities of a Member State or a third country facing the emergency and for provision of an expert on scene to coordinate observers from other Member States.</p>	<p>Community financial contribution: 100 % of the cost for the experts' missions.</p>

⁽¹⁾ The only eligible actions are those interesting all Member States or a significant number of them.

Proposal for a Council Directive establishing a general framework for equal treatment in employment and occupation

(2000/C 177 E/07)

(Text with EEA relevance)

COM(1999) 565 final — 1999/0225(CNS)

(Submitted by the Commission on 6 January 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 13 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Having regard to the opinion of the Committee of Regions,

Whereas:

- (1) The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to all Member States. In accordance with Article 6(2) of the Treaty on European Union, the Union should respect fundamental rights as guaranteed by the European Convention for the protection of Human Rights and Fundamental Freedoms, as general principles of Community law.
- (2) Article 13 of the Treaty establishing the European Community empowers the Council to take appropriate actions to combat discrimination based on sex, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation.
- (3) The principle of equal treatment on grounds of sex is well established by a considerable body of Community law, in particular in Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions⁽¹⁾. The Treaty establishing the European Community empowers the Council to adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

(4) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, UN Covenants on Civil and Political Rights and on Economic Social and Cultural Rights, of which all Member States are signatories; whereas ILO Convention No 111 prohibits discrimination in the field of employment and occupation.

(5) The Community Charter of the Fundamental Social Rights of Workers recognises the importance of combating every form of discrimination, including the need to take appropriate action for the social and economic integration of elderly and disabled people.

(6) The Treaty establishing the European Community includes among its objectives the promotion of coordination between employment policies of the Member States. To this end, a new employment chapter was incorporated in the Treaty establishing the European Community, as a means of developing a coordinated European strategy for employment to promote a skilled, trained and adaptable workforce.

(7) The 1999 Employment Guidelines agreed by the European Council at Vienna on 11 and 12 December 1998 stress the need to foster conditions for a more active participation in the labour market by formulating a coherent set of policies aimed at combating discrimination on grounds of disability and race or ethnic origin. The European Council Conclusions of Vienna emphasise the need to pay particular attention to supporting older workers, in order to increase their participation in the labour force.

(8) Employment and occupation are key elements in guaranteeing equal opportunities for all and strongly contribute to the full participation of citizens in economic, cultural and social life.

(9) Discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation may undermine the achievement of the objectives of the Treaty establishing the European Community, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity, and the fostering of the free movement of persons.

⁽¹⁾ OJ L 39, 14.2.1976, p. 40.

- (10) To this end any direct or indirect discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation as regards the areas covered by this Directive should be prohibited throughout the Community. Harassment which produces an intimidating, hostile, offensive or distributing work environment in relation to any discriminatory ground should be deemed to be discrimination.
- (11) The provision of measures to accommodate the needs of disabled people at the workplace play an important role in combating discrimination on grounds of disability.
- (12) A difference of treatment may be justified where a characteristic related to a discriminatory ground constitutes a genuine occupational qualification.
- (13) The European Union in its Declaration on the status of churches and non-confessional organisations, attached to the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status which churches and religious associations or communities enjoy in the Member States under national law and that it equally respects the status of philosophical and non-confessional organisations.
- (14) The prohibition of discrimination should be without prejudice to the maintenance or adoption of measures providing for specific advantages to prevent, reduce or eliminate inequalities associated with the abovementioned discriminatory grounds.
- (15) The provisions of this Directive lay down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State.
- (16) It is important to ensure that persons who have been subject to discrimination have adequate means of legal protection. Associations or legal entities must also be empowered to exercise the right of defence on behalf of any victim.
- (17) The effective implementation of the principle of equality requires adequate judicial protection in civil matters against victimisation and an adjustment of the general rules on the burden of proof.
- (18) Member States should provide adequate information on the provisions adopted pursuant to this Directive.
- (19) Member States should promote social dialogue between the social partners to address different forms of discrimination in the workplace and to combat them.
- (20) Member States should take the necessary measures to ensure that any laws, regulations, administrative provisions, collective agreements, internal rules of undertakings or rules governing independent occupations, professions, or trade organisations which are contrary to the principle of equal treatment should be declared null and void, or should be amended.
- (21) Member States should provide for effective, proportionate and dissuasive sanctions in case of breaches of the obligations under this Directive.
- (22) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty establishing the European Community, the objectives of this Directive, namely the creation, within the Community, of a level playing-field as regards equality in employment and occupation, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the proposed action, be better achieved by the Community. This Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose

The purpose of this Directive is to put into effect in the Member States the principle of equal treatment as regards access to employment and occupation, including promotion, vocational training, employment conditions and membership of certain organisations, of persons irrespective of racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 2

Concept of discrimination

1. For the purposes of this Directive, the principle of equal treatment shall mean that there shall be no direct or indirect discrimination whatsoever between persons on any of the grounds referred to in Article 1.

2. For the purposes of paragraph 1:

(a) direct discrimination shall be taken to occur where, on any of the grounds referred to in Article 1, one person is treated less favourably than another is, has been or would be treated.

(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice is liable to affect adversely a person or persons to whom any of the grounds referred to in Article 1 applies, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving it are appropriate and necessary.

3. Harassment of a person related to any of the discriminatory grounds and areas referred to in Article 1 which has the purpose or effect of creating an intimidating, hostile, offensive or disturbing environment, shall be deemed to be discrimination within the meaning of paragraph 1.

4. In order to guarantee compliance with the principle of equal treatment for persons with disabilities, reasonable accommodation shall be provided, where needed, to enable such persons to have access to, participate in, or advance in employment, unless this requirement creates an undue hardship.

Article 3

Material scope

This Directive shall apply to:

- (a) conditions for access to employment, self-employment and occupation, including selection criteria and recruitment conditions, whatever the sector or branch of activity and at all levels of the professional hierarchy, including promotion;
- (b) access to all types and to all levels, of vocational guidance, vocational training, advanced vocational training and retraining;
- (c) employment and working conditions, including dismissals and pay;
- (d) membership of and involvement in an organisation of workers or employers, or any other organisation whose members carry on a particular profession, including the benefits provided for by such organisations.

Article 4

Genuine occupational qualifications

1. Notwithstanding Article 2(1) and (2), Member States may provide that a difference of treatment which is based on a characteristic related to any of the discriminatory grounds referred to in Article 1 shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine occupational qualification.

2. Member States may provide that, in the case of public or private organisations which pursue directly and essentially the aim of ideological guidance in the field of religion or belief with respect to education, information and the expression of opinions, and for the particular occupational activities within those organisations which are directly and essentially related to that aim, a difference of treatment based on a relevant characteristic related to religion or belief shall not constitute discrimination where, by reason of the nature of these activities, the characteristic constitutes a genuine occupational qualification.

Article 5

Justification of differences of treatment on grounds of age

Notwithstanding point (a) of Article 2(2), the following differences of treatment, in particular, shall not constitute direct discrimination on grounds of age, if they are objectively and reasonably justified by a legitimate aim and are appropriate and necessary to the achievement of that aim:

- (a) the prohibition on access to employment or the provision of special working conditions to ensure the protection of young people and older workers;
- (b) the fixing of a minimum age as a condition of eligibility for retirement or invalidity benefits;
- (c) the fixing of different ages for employees or groups or categories of employees for entitlement to retirement or invalidity benefits on grounds of physical or mental occupational requirements;
- (d) the fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement;
- (e) the establishment of requirements concerning the length of professional experience;
- (f) the establishment of age limits which are appropriate and necessary for the pursuit of legitimate labour market objectives.

Article 6

Positive action

This Directive shall be without prejudice to the right of the Member States to maintain or adopt measures intended to prevent or compensate for disadvantages concerning persons to whom any of the discriminatory grounds referred to in Article 1 apply.

*Article 7***Minimum requirements**

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.
2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive.

CHAPTER II

REMEDIES AND ENFORCEMENT*Article 8***Defence of rights**

1. Member States shall ensure that judicial and/or administrative procedures for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the employment relationship has ended.
2. Member States shall ensure that associations, organisations or other legal entities may pursue any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive on behalf of the complainant with his or her approval.

*Article 9***Burden of proof**

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.
2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.
3. Paragraph 1 shall not apply to criminal procedures, unless otherwise provided by the Member States.
4. Paragraphs 1, 2 and 3 shall apply to any legal proceedings commenced in accordance with Article 8(2).

*Article 10***Victimisation**

Member States shall introduce into their national legal systems such measures as are necessary to protect employees against

dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.

*Article 11***Dissemination of information**

1. Member States shall ensure that adequate information on the provisions adopted pursuant to this Directive is provided to vocational training and educational bodies and is adequately disseminated within the workplace.
2. Member States shall ensure that competent public authorities are informed by appropriate means as regards all national measures taken pursuant to this Directive.

*Article 12***Social dialogue**

1. Member States shall take adequate measures to promote the social dialogue between the two sides of industry with a view to fostering equal treatment, through the monitoring of workplace practices, collective agreements, codes of conduct, research or exchange of experiences and good practices.
2. Member States shall encourage the two sides of the industry to conclude, at the appropriate level, including at undertaking level, agreements laying down anti-discrimination rules in the fields referred to in Article 3 which fall within the scope of collective bargaining. These agreements shall respect this Directive and the relevant national implementing measures.

CHAPTER III

FINAL PROVISIONS*Article 13***Compliance**

Member States shall take the necessary measures to ensure that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or rules governing the independent occupations and professions and workers' and employers' organisations, are declared null and void or are amended.

*Article 14***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 15 at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 15***Implementation**

Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2002. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

Member States shall determine how such reference is to be made.

*Article 16***Report**

Member States shall communicate to the Commission, within two years of the date mentioned in Article 15, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

*Article 17***Entry into force**

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

*Article 18***Addressees**

This Directive is addressed to the Member States.

Proposal for a Council Decision on the accession of the European Community to Regulation 108 of the United Nations Economic Commission for Europe concerning the approval for the production of retreaded pneumatic tyres for motor vehicles and their trailers

(2000/C 177 E/08)

(Text with EEA relevance)

COM(1999) 728 *final* — 2000/0002(AVC)

(Submitted by the Commission on 6 January 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ⁽¹⁾ ('revised 1958 Agreement'), and in particular Article 3(3) and the second indent of Article 4(2) thereof,

Having regard to the proposal by the Commission,

Having regard to the assent of the European Parliament,

Whereas:

(1) The aim of the uniform provisions of Regulation 108 of the United Nations Economic Commission for Europe concerning the approval for the production of retreaded pneumatic tyres for motor vehicles and their trailers is to abolish the technical barriers to trade in motor vehicles between the contracting parties with regard to retreaded

pneumatic tyres while ensuring a high level of safety and environmental protection.

(2) Regulation 108 has been notified to the contracting parties and entered into force in respect of all the contracting parties who did not serve notice of their disagreement by the date or dates specified in the regulation annexed to the revised agreement of 1958.

(3) In order to enable the economic operators to take appropriate measures to abide in time by the provisions of Regulation 108 so as not to disrupt the market in retreaded pneumatic tyres, in particular by dates of entry into force that could differ from one Member State to another, the uniform application of this regulation throughout the Community will be regulated later through a Community directive. However, Regulation 108 will not be integrated in the system for type-approval of motor vehicles and their trailers,

HAS DECIDED AS FOLLOWS:

Sole article

The European Community accedes to Regulation 108 of the United Nations Economic Commission for Europe concerning the approval for the production of retreaded pneumatic tyres for motor vehicles and their trailers ⁽²⁾.

⁽¹⁾ OJ L 346, 17.12.1997, p. 78.

⁽²⁾ Cf. document E/ECE/324-E/ECE/TRANS/505/Rev.2/Add.107.

REGULATION No 108

of the Economic Commission for Europe of the United Nations (UN/ECE)

UNIFORM PROVISIONS CONCERNING THE APPROVAL FOR THE PRODUCTION OF RETREADED PNEUMATIC TYRES FOR MOTOR VEHICLES AND THEIR TRAILERS

(E/ECE/324-E/ECE/TRANS/505/Rév.2/Add.107)

1. SCOPE

This Regulation applies to the production of retreaded tyres intended to be fitted to private (passenger) cars and their trailers used on the road. It does not however apply to:

- 1.1. Retreaded tyres for commercial vehicles and their trailers.
- 1.2. Retreaded tyres with a speed capability below 120 km/h or above 240 km/h.
- 1.3. Tyres for cycles and motorcycles.
- 1.4. Tyres originally produced without speed symbols and load indices
- 1.5. Tyres originally produced without type approval and without either an 'E' or 'e' mark.
- 1.6. Tyres designed for the equipment of cars produced prior to 1939.
- 1.7. Tyres designed exclusively for competition or off road use and marked accordingly.
- 1.8. Tyres designated as 'T type' temporary use spares

2. DEFINITIONS — See also figure in annex 8

For the purpose of this Regulation:

- 2.1. 'Range of retreaded pneumatic tyres' means a range of retreaded pneumatic tyres as quoted in paragraph 4.1.4.
- 2.2. 'Structure' of a pneumatic-tyre means the technical characteristics of the tyre's carcass. The following structures are distinguished in particular
 - 2.2.1. 'Diagonal' or 'Bias ply' describes a pneumatic-tyre structure in which the ply cords extend to the beads and are laid at alternate angles substantially less than 90° to the centreline of the tread.
 - 2.2.2. 'Bias belted' describes a pneumatic-tyre structure of diagonal (bias ply) type in which the carcass is stabilised by a belt, comprising two or more layers of substantially inextensible cord material laid at alternate angles close to those of the carcass.
 - 2.2.3. 'Radial' describes a pneumatic-tyre structure in which the ply cords extend to the beads and are laid substantially at 90° to the centreline of the tread, the carcass being stabilised by an essentially inextensible circumferential belt.
- 2.3. 'Category of use'
 - 2.3.1. Normal tyre is a tyre intended for normal road use only.
 - 2.3.2. Snow tyre is a tyre whose tread pattern, or tread pattern and structure, is primarily designed to ensure, in mud and fresh or melting snow, a performance better than that of a normal tyre. The tread pattern of a snow tyre generally consists of groove (rib) and solid block elements more widely spaced than on a normal tyre.
 - 2.3.3. Temporary use spare tyre is a tyre different from that intended to be fitted to any vehicle for normal driving conditions but intended only for temporary use under restricted driving conditions.
 - 2.3.4. 'T' type temporary use spare tyre is a type of temporary use spare tyre designed for use at inflation pressures higher than those established for standard and reinforced tyres.
- 2.4. 'Bead' means the part of a pneumatic-tyre which is of such shape and structure as to fit the rim and hold the tyre on it.
- 2.5. 'Cord' means the strands forming the fabric of the plies in the pneumatic-tyre.
- 2.6. 'Ply' means a layer of 'rubber' coated parallel cords.
- 2.7. 'Belt' applies to a radial ply or bias belted tyre and means a layer or layers of material or materials underneath the tread, laid substantially in the direction of the centre line of the tread to restrict the carcass in a circumferential direction.
- 2.8. 'Breaker' applies to a diagonal ply tyre and means an intermediate ply between the carcass and tread.
- 2.9. 'Chafer' means material in the bead area to protect the carcass against chafing or abrasion by the wheel rim.

- 2.10. 'Carcass' means that structural part of a pneumatic-tyre other than the tread and outermost 'rubber' of the sidewalls which, when inflated, supports the load.
- 2.11. 'Tread' means that part of a pneumatic-tyre which is designed to come into contact with the ground, protects the carcass against mechanical damage and contributes to ground adhesion.
- 2.12. 'Sidewall' means the part of a pneumatic tyre between the tread and the area designed to be covered by the rim flange.
- 2.13. 'Lower area of tyre' means the area included between the line of maximum section width of the tyre and the area designed to be covered by the edge of the rim.
- 2.14. 'Tread groove' means the space between the adjacent ribs or blocks in the tread pattern.
- 2.15. 'Principal grooves' means the wide grooves situated in the central zone of the tread, which cover approximately three-quarters of the breadth of the tread.
- 2.16. 'Section width' means the linear distance between the outside of the sidewalls of an inflated pneumatic-tyre, when fitted to the specified measuring rim, but excluding elevations due to labelling (marking), decoration or protective bands or ribs.
- 2.17. 'Overall width' means the linear distance between the outside of the sidewalls of an inflated pneumatic-tyre, when fitted to the specified measuring rim, and including labelling (marking) decoration or protective bands or ribs.
- 2.18. 'Section height' means a distance equal to half the difference between the outer diameter of the tyre and the nominal rim diameter.
- 2.19. 'Nominal aspect ratio' means one hundred times the number obtained by dividing the number expressing the nominal section height by the number expressing the nominal section width, both dimensions being in the same units.
- 2.20. 'Outer diameter' means the overall diameter of an inflated, newly retreaded tyre.
- 2.21. 'Tyre size designation' means a designation showing:
- 2.21.1. The nominal section width. This must be expressed in millimetres, except in cases of tyres for which the size designation is shown in the first column of the tables in annex 5 to this Regulation.
- 2.21.2. The nominal aspect ratio except in cases of tyres for which the size designation is shown in the first column of the tables in annex 5 to this Regulation.
- 2.21.3. A conventional number 'd' (the 'd' symbol) denoting the nominal rim diameter of the rim and corresponding to its diameter expressed either by codes (numbers below 100) or in millimetres (numbers above 100). Numbers corresponding to both types of measurements may be used in the designation.
- 2.21.3.1. The values of the 'd' symbols expressed in millimetres are shown below:

Nominal Rim Diameter Code — 'd'	Value of the 'd' symbol expressed in mm
8	203
9	229
10	254
11	279
12	305
13	330
14	356
15	381
16	406
17	432
18	457
19	483
20	508
21	533

- 2.22. 'Nominal rim diameter (d)' means the diameter of the rim on which a tyre is designed to be mounted.
- 2.23. 'Rim' means the support, either for a tyre-and-tube assembly or for a tubeless tyre, on which the tyre beads are seated.
- 2.24. 'Measuring rim' means the rim specified as a 'measuring rim width', or 'design rim width' for a particular tyre size designation in any edition of one or more of the International Tyre Standards.

- 2.25. 'Test rim' means any rim specified as approved or recommended or permitted in one of the International Tyre Standards for a tyre of that size designation and type.
- 2.26. 'International Tyre Standard' means any one of the following standard documents:
- (a) The European Tyre and Rim Technical Organisation (ETRTO) ⁽¹⁾: 'Standards Manual'
 - (b) The European Tyre and Rim Technical Organisation (ETRTO) Design Information — 'obsolete data'
 - (c) The Tire and Rim Association Inc. (TRA) ⁽²⁾: 'Year Book'
 - (d) The Japan Automobile Tire Manufacturers Association (JATMA) ⁽³⁾: 'Year Book'
 - (e) The Tyre and Rim Association of Australia (TRAA) ⁽⁴⁾: 'Standards Manual'
 - (f) The Associação Brasileira de Pneus e Aros (ABPA) ⁽⁵⁾: 'Manual de Normal Técnicas'
 - (g) The Scandinavian Tyre and Rim Organisation (STRO) ⁽⁶⁾: 'Data Book'
- 2.27. 'Chunking' means the breaking away of pieces of rubber from the tread.
- 2.28. 'Cord separation' means the parting of the cords from their rubber coating.
- 2.29. 'Ply separation' means the parting of adjacent plies.
- 2.30. 'Tread separation' means the pulling away of the tread from the carcass.
- 2.31. 'Tread wear indicators' means the projections within the tread grooves designed to give a visual indication of the degree of wear of the tread.
- 2.32. 'Service description' means the specific combination of the load index and speed symbol of the tyre.
- 2.33. 'Load index' means a numerical code which indicates the maximum load the tyre can support.
- The list of load indices and the corresponding loads are shown in annex 4 to this Regulation.
- The tyre standards can be obtained from the following addresses:
- ⁽¹⁾ ETRTO, 32, Av. Brugmann-Bte 2, B-1060 Bruselas.
 - ⁽²⁾ TRA, 175 Montrose West Avenue, Suite 150, Copley, Ohio, 44321 Estados Unidos de América.
 - ⁽³⁾ JATMA, 9th Floor, Toranomom Building n° 1-12, 1-Chome Toranomom Minato-ku, Tokio 105, Japón.
 - ⁽⁴⁾ TRAA, Suite 1, Hawthorn House, 795 Glenferrie Road, Hawthorn, Victoria, 3122 Australia.
 - ⁽⁵⁾ ABPA, Avenida Paulista 244-12° Andar, CEP, 01310 Sao Paulo, SP Brasil.
 - ⁽⁶⁾ STRO, Älggatan 48 A, Nb, S-216 15 Malmö.
- 2.34. 'Speed symbol' means:
- 2.34.1. An alphabetical symbol indicating the speed at which the tyre can carry the load given by the associated load index.
- 2.34.2. The speed symbol and corresponding speeds are as shown in the table below:

Speed symbol	Corresponding speed (km/h)
L	120
M	130
N	140
P	150
Q	160
R	170
S	180
T	190
U	200
H	210
V	240

- 2.35. 'Maximum load rating' means the maximum mass which the tyre is rated to support.
- 2.35.1. For speeds not exceeding 210 km/h, the maximum load rating shall not exceed the value corresponding to the load index for the tyre.

- 2.35.2. For speeds higher than 210 km/h but not exceeding 240 km/h, (tyres with speed symbol 'V'), the maximum load rating shall not exceed the percentage of the value corresponding to the load index of the tyre, indicated in the table below against the speed capability of the vehicle to which the tyre is to be fitted:

Maximum Speed (km/h)	Load per cent
215	98,5
220	97,0
225	95,5
230	94,0
235	92,5
240	91,0

For intermediate maximum speeds a linear interpolation of the maximum load rating is permissible.

- 2.36. 'Retreading production unit' means a site or group of localised sites where finished retread tyres are produced.
- 2.37. 'Retreading' means the generic term for reconditioning a used tyre by replacing the worn tread with new material. It may also include renovation of the outermost sidewall surface. It covers the following process methods:
- 2.37.1. 'Top-capping' — replacement of the tread.
- 2.37.2. 'Re-capping' — replacement of the tread and with the new material extending over part of the sidewall.
- 2.37.3. 'Bead to bead' — replacement of the tread and renovation of the sidewall including all or part of the lower area of the tyre.
- 2.38. 'Casing' is the worn tyre comprising carcass and remaining tread and sidewall material.
- 2.39. 'Buffing' is the process of removing old material from the casing to prepare the surface for the new material
- 2.40. 'Repair' is the remedial work carried out to damaged casings within recognised limits.
- 2.41. 'Tread material' is material in a condition suitable for replacing the worn tread. It can be in several forms for example:
- 2.41.1. 'Camel-back' — pre-cut lengths of material which have been extruded to give the required cross section profile and subsequently fitted cold to the prepared casing. The new material must be cured.
- 2.41.2. 'Strip-wound' — a ribbon of tread material which is directly extruded and wound on to the prepared casing and built up to the required cross sectional contour. The new material must be cured.
- 2.41.3. 'Direct extrusion' — tread material extruded to give the required cross sectional profile and directly extruded on to the prepared casing. The new material must be cured.
- 2.41.4. 'Pre-cured' — a previously formed and cured tread applied directly to the prepared casing. The new material must be bonded to the casing.
- 2.42. 'Sidewall veneer' is material used to cover the sidewalls of the casing thereby allowing the required markings to be formed.
- 2.43. 'Cushion gum' is material used as a bonding layer between new tread and casing and for repairing minor damage.
- 2.44. 'Cement' is an adhesive solution to hold new materials in place prior to the curing process.
- 2.45. 'Cure' is the term used to describe the change in physical properties of the new material which is brought about usually by the application of heat and pressure for a set period of time under controlled conditions.
- 2.46. 'Radial run out' means the variation in radius of the tyre measured around the outer circumference of the tread surface.
- 2.47. 'Imbalance' means a measurement of the variation in distribution of mass around the centre axis of the tyre. It can be measured as either 'Static' or 'Dynamic' imbalance.
3. MARKINGS
- 3.1. An example of the arrangement of retreaded tyre markings is shown in annex 3 to this Regulation.
- 3.2. Retreaded tyres shall display on both sidewalls in the case of symmetrical tyres and at least on the outer sidewall in the case of asymmetrical tyres:
- 3.2.1. The brand name or trade mark.
- 3.2.2. The tyre-size designation as defined in paragraph 2.21.

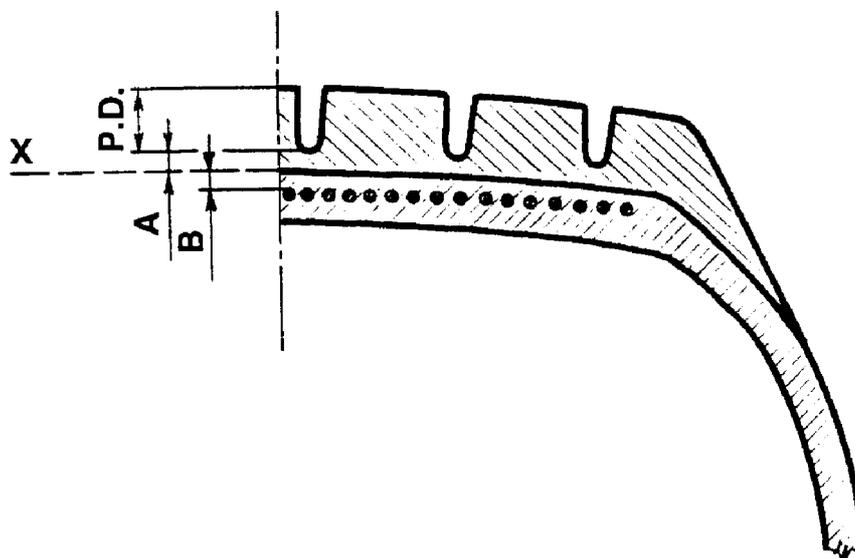
- 3.2.3. An indication of the structure as follows:
- 3.2.3.1. On diagonal (bias-ply) tyres; no indication, or the letter 'D' placed in front of the rim diameter marking.
- 3.2.3.2. On radial-ply tyres; the letter 'R' placed in front of the rim diameter marking and optionally the word 'RADIAL'.
- 3.2.3.3. On bias belted tyres; the letter 'B' placed in front of the rim diameter marking and in addition the words 'BIAS-BELTED'.
- 3.2.4. The service description comprising:
- 3.2.4.1. An indication of the tyre's nominal load capacity in the form of the load index prescribed in paragraph 2.33.
- 3.2.4.2. An indication of the tyre's nominal speed capability in the form of the symbol prescribed in paragraph 2.34.
- 3.2.5. The word 'TUBELESS' if the tyre is designed for use without an inner tube.
- 3.2.6. The inscription M+S or MS or M.S. or M & S in the case of a snow tyre.
- 3.2.7. The date of retreading as follows:
- 3.2.7.1. Up to 31 December 1999; either as prescribed in paragraph 3.2.7.2.
- Or in the form of a group of three digits, the first two showing the week number and the third, the year of the decade of manufacture. The date code can cover a period of production from the week indicated by the week number up to and including the week number plus three. For example, the marking '253' could indicate a tyre which was retreaded in weeks 25, 26, 27 or 28 of the year 1953.
- The date code may be marked on one sidewall only.
- 3.2.7.2. As from 1 January 2000; in the form of a group of four digits, first two showing the week number and the second two showing the year in which the tyre was retreaded. The date code can cover a period of production from the week indicated by the week number up to and including the week number plus three. For example, the marking '2503' could indicate a tyre which was retreaded in weeks 25, 26, 27 or 28 of the year 2003.
- The date code may be marked on one sidewall only.
- 3.2.8. The term 'RETREAD' or 'REMOULD' (after 1 January 1999 only the word 'RETREAD' shall be used). At the request of the retreader, the same term in other languages may also be added.
- 3.3. Prior to approval tyres shall exhibit a free space sufficiently large to accommodate an approval mark as referred to in paragraph 5.8 and as shown in annex 2 to this Regulation.
- 3.4. Following approval, the markings referred to in paragraph 5.8 and as shown in annex 2 to this Regulation shall be affixed in the free space referred to in paragraph 3.3. This marking may be affixed to one sidewall only.
- 3.5. The markings referred to in paragraph 3.2 and the approval mark prescribed in paragraphs 3.4 and 5.8 shall be clearly legible and shall be moulded on to or into the tyre or shall be permanently marked on to the tyre.
- 3.6. As far as any of the original manufacturer's specifications are still legible after the tyres have been retreaded, they shall be regarded as specifications of the retreader for the retreaded tyre. If these original specifications do not apply after retreading they shall be completely removed.
- The original 'E' or 'e' approval mark and number shall be removed.
4. APPLICATION FOR APPROVAL
- The following procedures are applicable to the approval of a tyre retreading production unit.
- 4.1. The application for approval of a retreading production unit shall be submitted by the holder of the trade name or trade mark to be applied to the tyre or by his duly accredited, representative. It shall specify:
- 4.1.1. An outline of the structure of the company producing the retreaded tyres.
- 4.1.2. A brief description of the quality management system, which ensures the effective control of the tyre retreading procedures to meet the requirements of this Regulation.
- 4.1.3. The trade names or marks to be applied to the retreaded tyres produced.
- 4.1.4. The following information in relation to the range of tyres to be retreaded:
- 4.1.4.1. The range of tyre sizes;
- 4.1.4.2. The structure of tyres (diagonal or bias ply, bias-belted or radial);
- 4.1.4.3. The category of use of tyres (normal or snow tyres etc.);
- 4.1.4.4. The system of retreading and the method of application of the new materials to be used, as defined in paragraphs 2.37 and 2.41;

- 4.1.4.5. The maximum speed symbol of the tyres to be retreaded;
- 4.1.4.6. The maximum load index of the tyres to be retreaded.
- 4.1.4.7. The nominated International Tyre Standard to which the range of tyres conform.
5. APPROVAL
- 5.1. To retread tyres requires the approval of the retreading production unit by the responsible authorities in accordance with the requirements of this Regulation.
- The responsible authority takes the necessary measures as described in this Regulation in order to ensure that the tyres retreaded in the respective production unit will meet with the requirements stated in this Regulation. The retread production unit shall be fully responsible for ensuring that the retreaded tyres will meet the requirements of this Regulation and that they will perform adequately in normal use.
- 5.2. In addition to the normal requirements for the initial assessment of the tyre retreading production unit, the approval authority shall be satisfied that the procedures, operation, instructions and specification documentation provided by material suppliers are in a language readily understood by the tyre retreading production unit operatives.
- 5.3. The approval authority shall ensure that the procedures and operations documentation for each production unit contains specifications, appropriate to the repair materials and processes used, of the limits of repairable damage or penetrations to the tyre carcass, whether such damage is existing or is caused during the processes of preparation for retreading.
- 5.4. Before granting approval the authority must be satisfied that retreaded tyres conform to this Regulation and that the tests prescribed in paragraphs 6.7 and 6.8 have been successfully carried out on at least 5 and not necessarily more than 20 samples of retreaded tyres representative of the range of tyres produced by the retreading production unit.
- 5.5. In the case of each failure being recorded during tests, two further samples of the same specification tyre shall be tested.
- If either or both of these second two samples fail, then a final submission of two samples shall be tested. If either or both of the final two samples fail, then the application for approval of the retreading production unit shall be rejected.
- 5.6. If all the requirements of this Regulation are met, then approval shall be granted and an approval number shall be assigned to each retreading production unit approved. The first two digits of this number shall indicate the series of amendments incorporating the most recent major technical amendments made to the Regulation at the time of issue of the approval. The approval number shall be preceded by 'XXXR' signifying that the approval applies to a tyre retreaded as prescribed in this Regulation. The same authority shall not assign the same number to another production unit covered by this Regulation.
- 5.7. Notice of approval or of extension, refusal or withdrawal of approval or of production definitely discontinued pursuant to this Regulation shall be communicated to the Parties to the 1958 Agreement applying this Regulation, by means of a form conforming to the model in annex 1 to this Regulation.
- 5.8. There shall be affixed conspicuously to every retreaded tyre conforming to this Regulation, in the space referred to in paragraph 3.3 and in addition to the markings prescribed in paragraph 3.2, an international approval mark consisting of:
- 5.8.1. A circle surrounding the letter 'E' followed by the distinguishing number of the country which granted approval⁽¹⁾; and
- 5.8.2. An approval number as described in paragraph 5.6.
- 5.9. Annex 2 to this Regulation gives an example of the arrangements of the approval mark.
6. REQUIREMENTS
- 6.1. Tyres shall not be accepted for retreading unless they have been type approved and bear either an 'E' or 'e' mark, except that this requirement shall not be mandatory until 1 January 2000 at the latest.
- 6.2. Tyres which have been previously retreaded shall not be accepted for further retreading.
- 6.3. The age of the casing accepted for retreading shall not exceed 7 years, based on the digits showing the year of manufacture of the original tyre; e.g. the tyre marked with a date code '253' can be accepted for retreading till the end of the year 2000.
- 6.4. Conditions before retreading:
- 6.4.1. Tyres shall be clean and dry before inspection.

(¹) 1 for Germany, 2 for France, 3 for Italy, 4 for the Netherlands, 5 for Sweden, 6 for Belgium, 7 for Hungary, 8 for the Czech Republic, 9 for Spain, 10 for Yugoslavia, 11 for the United Kingdom, 12 for Austria, 13 for Luxembourg, 14 for Switzerland, 15 (vacant), 16 for Norway, 17 for Finland, 18 for Denmark, 19 for Romania, 20 for Poland, 21 for Portugal, 22 for The Russian Federation, 23 for Greece, 24 for Ireland, 25 for Croatia, 26 for Slovenia, 27 for Slovakia, 28 for Belarus, 29 for Estonia, 30 (vacant), 31 for Bosnia and Herzegovina, 32-36 (vacant), 37 for Turkey, 38-39 (vacant), 40 for the former Yugoslav Republic of Macedonia, 41 (vacant), 42 for the European Community (Approvals are granted by its Member States using their respective ECE symbol) and 43 for Japan. Subsequent numbers shall be assigned to other countries in the chronological order in which they ratify or accede to the Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, and the numbers thus assigned shall be communicated by the Secretary-General of the United Nations to the Contracting Parties to the Agreement.

- 6.4.2. Before buffing, each tyre shall be thoroughly examined both internally and externally to ensure its suitability for retreading.
- 6.4.3. Tyres where damage is visible which has resulted from overload or underinflation shall not be retreaded.
- 6.4.4. Tyres showing any of the following damage shall not be accepted for retreading:
- 6.4.4.1. (a) extensive cracking extending through to the carcass;
- (b) carcass penetrations or damage to casings above 'H' speed symbol except where these casings are to be down rated to a lower speed symbol;
- (c) previous repairs to damage outside specified injury limits — see paragraph 5.3;
- (d) carcass break up;
- (e) appreciable oil or chemical attack;
- (f) multiple damage too close together;
- (g) damaged or broken bead;
- (h) non-repairable deterioration of or damage to inner liner;
- (i) bead damage other than minor 'rubber' only damage;
- (j) exposed cords due to tread wear or sidewall scuffing;
- (k) non-repairable tread or sidewall material separation from the carcass;
- (l) structural damage in the area of the sidewall.
- 6.4.5. Radial ply tyre carcasses with separation in the belt, other than slight belt edge looseness, shall not be accepted for retreading.
- 6.5. Preparation:
- 6.5.1. After buffing, and before the application of new material, each tyre shall be thoroughly re-examined at least externally to ensure its continued suitability for retreading.
- 6.5.2. The entire surface to which new material is to be applied shall have been prepared without overheating. The buffed surface texture shall not contain deep buffing lacerations or loose material.
- 6.5.3. Where precured material is to be used the contours of the prepared area shall meet the requirements of the material manufacturer.
- 6.5.4. Loose cord ends are not permissible.
- 6.5.5. Casing cords shall not be damaged during the preparation process.
- 6.5.6. Buffing damage to the belt of radial tyres shall be limited to localised damage to the outermost layer only.
- 6.5.7. Buffing damage limits for diagonal ply tyres shall be as follows:
- 6.5.7.1. For two ply construction, there shall not be any damage to the carcass except for slight localised buffing damage to the casing joint.
- 6.5.7.2. For two ply plus breaker construction of tubeless type tyres, there shall not be any damage to the carcass or breaker.
- 6.5.7.3. For two ply plus breaker construction of tube type tyres, localised damage to the breaker is permissible.
- 6.5.7.4. For four ply, or more, construction of tubeless type tyres, there shall not be any damage to the carcass or breaker.
- 6.5.7.5. For four ply, or more, construction of tube type tyres, damage shall be limited to the outermost ply in the crown area only.
- 6.5.8. Exposed steel parts shall be treated as soon as possible with appropriate material as defined by the manufacturer of that appropriate material.
- 6.6. Retreading:
- 6.6.1. The retreader must ensure that either the manufacturer or the supplier of repair materials, including patches, is responsible for the following:
- (a) defining method(s) of application and storage, if requested by the retreader, in the national language of the country in which the materials are to be used;
- (b) defining limits of damage for which the materials are designed, if requested by the retreader, in the national language of the country in which the materials are to be used;
- (c) ensuring that reinforced patches for tyres, if correctly applied in carcass repairs, are suitable for the purpose;

- (d) ensuring that the patches are capable of withstanding twice the maximum inflation pressure as given by the tyre manufacturer;
- (e) ensuring the suitability of any other repair materials for the service intended.
- 6.6.2. The retreader shall be responsible for the correct application of the repair material and for ensuring that the repair is free from any defects which may affect the satisfactory service life of the tyre.
- 6.6.3. The retreader shall ensure that either the manufacturer or the supplier of tread and sidewall material issues specifications concerning the conditions of storage and use of the material in order to guarantee the material's qualities. If requested by the retreader, this information shall be in the national language of the country in which the materials are to be used.
- 6.6.4. The retreader must ensure that the repair material and/or compound is documented in a manufacturer's or supplier's certificate. The material compound must be suitable for the intended use of the tyre.
- 6.6.5. The processed tyre shall be cured as soon as possible after the completion of all repairs and building-up operations and at the latest according to the material manufacturer's specifications.
- 6.6.6. The tyre shall be cured for the length of time and at the temperature and pressure, appropriate to, and specified for, the materials and processing equipment used.
- 6.6.7. The dimensions of the mould shall be appropriate to the thickness of the new material and the size of the buffed casing. Radial ply tyres, when moulded, shall be cured in radial or radially divided moulds only.
- 6.6.8. The thickness of original material after buffing and the average thickness of any new material under the tread pattern after retreading shall be as given in paragraphs 6.6.8.1 and 6.6.8.2. The thickness of material at any point either across the breadth of the tread or around the circumference of the tyre shall be controlled in such a way that the provisions of paragraphs 6.7.5 and 6.7.6 are met.
- 6.6.8.1. For radial ply and bias belted tyres (mm)
- $1.5 \leq (A+B) \leq 5$ (minimum 1.5 mm; maximum 5.0 mm)
- $A \geq 1$ (minimum 1.0 mm)
- $B \geq 0.5$ (minimum 0.5 mm)



P.D. = Pattern depth

X = Buff line

A = Average thickness of new material under pattern

B = Minimum thickness of original material above belt after buffing

- 6.6.8.2. For diagonal (Bias-ply) tyres.

The thickness of original material above the breaker shall be ≥ 0.00 mm.

The average thickness of new material above the buffed casing line shall be ≥ 2.00 mm.

- The combined thickness of original and new material beneath the base of the grooves of the tread pattern shall be ≥ 2.00 and ≤ 5.00 mm.
- 6.6.9. The service description of a retreaded tyre shall not show either a higher speed symbol or a higher load index than that of the original, first life, tyre.
- 6.6.10. The minimum speed capability of a retreaded tyre shall be 120 km/h ('L' speed symbol) and the maximum shall be 240 km/h ('V' speed symbol).
- 6.6.11. Tread wear indicators shall be incorporated as follows:
- 6.6.11.1. The retreaded pneumatic tyre shall include not less than six transverse rows of wear indicators, approximately equi-spaced and situated in the principal grooves of the tread. The tread wear indicators shall be such that they cannot be confused with the material ridges between the ribs or blocks of the tread.
- 6.6.11.2. However, in the case of tyres designed for mounting on rims of a nominal diameter of code 12 or less, four rows of tread wear indicators are permissible.
- 6.6.11.3. The tread wear indicators shall provide a means of indicating, with a tolerance of $+ 0.60/- 0.00$ mm, when the tread grooves are no longer more than 1.6 mm deep.
- 6.6.11.4. The height of the tread wear indicators shall be determined by measuring the difference between the depth from the tread surface to the top of the tread wear indicators and the base of the tread grooves, close to the slope at the base of the tread wear indicators.
- 6.7. Inspection:
- 6.7.1. After curing, whilst a degree of heat is retained in a tyre, each retreaded tyre shall be examined to ensure that it is free apparent defects. During or after retreading the tyre must be inflated to at least 1.5 bar for examination. Where there is any apparent defect in the profile of the tyre (e.g. blister, depression, etc.) the tyre shall be specifically examined to determine the cause of this defect.
- 6.7.2. Before, during or after retreading the tyre shall be checked at least once for the integrity of its structure by means of a suitable inspection method.
- 6.7.3. For the purposes of quality control a number of retreaded tyres shall be subjected to destructive and/or non-destructive testing examination. The quantity of tyres checked and the results shall be recorded.
- 6.7.4. After retreading, the dimensions of the retreaded tyre, when measured in accordance with annex 6 to this Regulation, must conform either to dimensions calculated according to the procedures in paragraph 7 or to annex 5 to this Regulation.
- 6.7.5. The radial run out of the retreaded tyre shall not exceed 1.5 mm (+ 0.4 mm measuring tolerance).
- 6.7.6. The maximum static imbalance of the retreaded tyre, measured at the rim diameter, shall not exceed 1.5 per cent of the mass of the tyre.
- 6.7.7. Tread wear indicators shall conform to the requirements of paragraph 6.6.11.
- 6.8. Performance test:
- 6.8.1. Tyres retreaded to comply with this Regulation shall be capable of meeting the load/speed endurance test as specified in annex 7 to this Regulation.
- 6.8.2. A retreaded tyre which after undergoing the load/speed endurance test does not exhibit any tread separation, ply separation, cord separation, chunking or broken cords shall be deemed to have passed the test.
- 6.8.3. The outer diameter of the tyre, measured six hours after the load/speed endurance test, must not differ by more than ± 3.5 per cent from the outer diameter as measured before the test.

7. SPECIFICATIONS

- 7.1. Tyres retreaded to comply with this Regulation shall conform to the following dimensions:
- 7.1.1. Section width:
- 7.1.1.1. The section width shall be calculated by the following formula:

$$S = S1 + K (A - A1)$$

where:

S: is the actual section width in millimetres as measured on the test rim;

S1: is the value of the 'Design Section Width', referred to the measuring rim, as quoted in the International Tyre Standard specified by the retreader for the tyre size in question;

A: is the width of the test rim in millimetres;

A1: is the width in millimetres of the measuring rim as quoted in the International Tyre Standard specified by the retreader for the tyre size in question.

K: is a factor and shall be taken to equal 0.4.

7.1.2. Outer diameter:

7.1.2.1. The theoretical outer diameter of a retreaded tyre shall be calculated by the following formula:

$$D = d + 2H$$

where:

D: is the theoretical outer diameter in millimetres;

d: is the conventional number defined in paragraph 2.21.3, in millimetres;

H: is nominal section height in millimetres and is equal to S_n multiplied by 0.01 R_a

where:

S_n : is the nominal section width in millimetres;

R_a : is the nominal aspect ratio

All of the above symbols are as quoted in the tyre size designation as shown on the sidewall of the tyre in conformity with the requirements of paragraph 3.2.2 and as defined in paragraph 2.21.

7.1.2.2. However, for tyres whose designation is given in the first column of the tables in annex 5 to ECE Regulation No 30, the outer diameter shall be that given in those tables.

7.1.3. Method of measuring retreaded tyres:

7.1.3.1. The dimensions of retreaded tyres shall be measured in accordance with the procedures given in annex 6 to this Regulation.

7.1.4. Section width specifications:

7.1.4.1. The actual overall width may be less than the section width or widths determined in paragraph 7.1.

7.1.4.2. The actual overall width may also exceed the value or values determined in paragraph 7.1 by:

7.1.4.2.1. 4 per cent in the case of radial ply tyres and

7.1.4.2.2. 6 per cent in the case of diagonal (bias-ply) or bias belted tyres.

7.1.4.2.3. in addition, if the tyre has a special protective band, the width may be greater by up to 8 mm above the tolerances given by paragraphs 7.1.4.2.1 and 7.1.4.2.2.

7.1.5. Outer diameter specifications:

7.1.5.1. The actual outer diameter of a retreaded tyre must not be outside the values of D_{\min} and D_{\max} obtained by the following formulae:

$$D_{\min} = d + (2H \times a)$$

$$D_{\max} = d + (2H \times b)$$

where:

For sizes not given in the tables in annex 5 to this Regulation, 'H' and 'd' are as defined in paragraph 7.1.2.1.

7.1.5.1.2. For sizes mentioned in paragraph 7.1.2.2 above:

$$H = 0.5 (D - d)$$

where 'D' is the outer diameter and 'd' the Nominal rim diameter quoted in the above-mentioned tables for the size in question

7.1.5.1.3. The coefficient 'a' = 0.97

7.1.5.1.4. The coefficient 'b' is:

	Radial tyres	Diagonal (bias-ply) and bias belted tyres
For normal use tyres 1.04	1.04	1.08

7.1.5.2. For snow tyres the maximum outer diameter (D_{\max}) calculated in paragraph 7.1.5.1 may be exceeded by not more than 1 per cent.

8. MODIFICATIONS TO THE APPROVAL

8.1. Every modification concerning a retreading production unit amending any of the information given by the retreading production unit in the Application for Approval, see paragraph 4, shall be notified to the approval authority which approved the retreading production unit. That authority may then either:

8.1.1. Consider that the modifications made are unlikely to have an appreciable adverse effect and that in any case the retreading production unit still meets the requirements; or

8.1.2. Require a further investigation of the approval.

8.2. Confirmation of, or refusal of, approval, specifying the modifications, shall be communicated by the procedure specified in paragraph 5.7 to the Parties to the Agreement which apply this Regulation.

9. CONFORMITY OF PRODUCTION

The conformity of production procedures shall comply with those set out in the Agreement, Appendix 2 (E/ECE/t24-E/ECE/TRANS/505/Rev.2), with the following requirements.

9.1. The retreading production unit approved according to this Regulation shall conform to the requirements set out in paragraph 6.

9.2. The holder of the approval shall ensure that, during each year of production, and spread throughout that year, at least the following number of tyres, representative of the range being produced, is checked and tested as prescribed in this Regulation:

9.2.1. 0.01 per cent of the total annual production but in any case not less than 5 and not necessarily more than 20.

9.3. If the requirements of paragraph 9.2 are carried out by or under the control of the approval authority, the results may be used as part of, or instead of, those prescribed in paragraph 9.4.

9.4. The authority which has approved the retreading production unit may at any time verify the conformity control methods applied in each production facility.

For each production facility the type approval authority shall take samples at random during each and every production year and at least the following number of tyres, representative of the range being produced, shall be checked and tested as prescribed in this Regulation:

9.4.1. 0.01 per cent of the total annual production but in any case not less than 5 and not necessarily more than 20.

9.5. The tests and checks of paragraph 9.4 may replace those required in paragraph 9.2.

10. PENALTIES FOR NON-CONFORMITY OF PRODUCTION

10.1. The approval granted in respect of a retreading production unit pursuant to this Regulation may be withdrawn if the requirements of paragraph 9 are not complied with or if the retreading production unit or the retreaded tyres produced by that retreading production unit have failed to meet the requirements prescribed in that paragraph.

10.2. If a Party to the Agreement which applies this Regulation withdraws an approval it has previously granted, it shall forthwith so notify the other Contracting Parties to the 1958 Agreement applying this Regulation, by means of a communication form conforming to the model shown in annex 1 to this Regulation.

11. PRODUCTION DEFINITELY DISCONTINUED

The authority which granted the approval of the retreading production unit shall be informed if operations and manufacture of retreaded tyres approved within the scope of this Regulation cease. On receipt of this information the authority shall communicate this information to the other Parties to the 1958 Agreement applying this Regulation by means of a communication form conforming to the model shown in annex 1 to this Regulation.

12. NAMES AND ADDRESSES OF TECHNICAL SERVICES RESPONSIBLE FOR CONDUCTING APPROVAL TESTS, OF TEST LABORATORIES, AND OF ADMINISTRATIVE DEPARTMENTS

12.1. The Parties to the 1958 Agreement which apply this Regulation shall communicate to the United Nations Secretariat the names and addresses of the technical services responsible for conducting approval tests and, where applicable, of the approved test laboratories and of the administrative departments which grant approval and to which forms certifying approval or refusal or withdrawal of approval, issued in other countries, are to be sent.

12.2. The Parties to the 1958 Agreement which apply this Regulation may use laboratories of tyre manufacturers or retreading production units and may designate, as approved test laboratories, those which are situated either in the territory of that Party or in the territory of another Party to the 1958 Agreement subject to a preliminary acceptance of this procedure by the competent administrative department of the latter.

12.3. Where a Party to the 1958 Agreement applies paragraph 12.2, it may, if it desires, be represented at the tests.

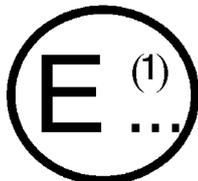
ANNEX 1

COMMUNICATION

(maximum format: A4 (210 × 297 mm))

issued by: Name of administration:

.....
.....
.....



concerning: ⁽²⁾-9

- APPROVAL GRANTED
- APPROVAL EXTENDED
- APPROVAL REFUSED
- APPROVAL WITHDRAWN
- PRODUCTION DEFINITELY DISCONTINUED

of a retreading production unit pursuant to Regulation No 108.

Approval No: Extension No:

1. Retreader's name or trade mark:
2. Name and address of retreading production unit:
3. If applicable, name and address of retreader's representative:
4. Summarised description as in paragraphs 4.1.3 and 4.1.4 of this Regulation:
5. Technical service and, where applicable, test laboratory approved for purposes of approval or verification of conformity:
6. Date of report issued by that service:
7. Number of report issued by that service:
8. Reason(s) of extension (if applicable):
9. Any remarks:
10. Place:
11. Date:
12. Signature
13. Annexed to this communication is a list of documents in the approval file deposited at the Approval Authority which has considered this approval and which can be obtained upon request.

⁽¹⁾ Distinguishing number of the country which has granted/extended/refused/withdrawn an approval (see approval provisions in the Regulation).

⁽²⁾ Delete that which does not apply.

ANNEX 2

ARRANGEMENT OF APPROVAL MARK



$a = 12$ mm (minimum)

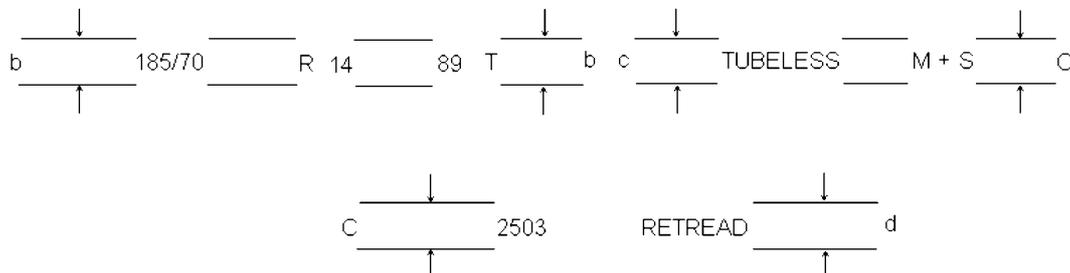
The above approval mark affixed to a retreaded tyre shows that the retreading production unit concerned has been approved in the Netherlands (E4) under approval number XXXR002439 meeting the requirements of this Regulation in its original form (00).

The approval number must be placed close to the circle and either above or below the 'E' or left or right of that letter. The digits of the approval number must be on the same side of the 'E' and face in the same direction. The use of Roman numerals as approval numbers should be avoided so as to prevent any confusion with other symbols.

ANNEX 3

ARRANGEMENT OF RETREAD TYRE MARKINGS

Example of the markings to be borne by retreaded tyres placed on the market after the entry into force of this Regulation



b: 6 mm (min.)

c: 4 mm (min.)

d: 3 mm (min.)

and from 1998, 4 mm (min.)

These markings define a retreaded tyre:

having a nominal section width of 185;

having a nominal aspect ratio of 70;

of radial-ply structure (R);

having a nominal rim diameter of code 14;

having a service description '89T' indicating a load capacity of 580 kg corresponding to a load index of '89' and a maximum speed capability of 190 km/h corresponding to a speed symbol 'T';

for fitting without an inner tube ('TUBELESS');

of snow type (M+S);

retreaded in the weeks 25, 26, 27 or 28 of the year 2003;

The positioning and order of the markings constituting the tyre designation shall be as follows:

- the size designation, comprising the nominal section width, the nominal aspect ratio, the type-of-structure symbol (where applicable) and the nominal rim diameter shall be grouped as shown in the above example: 185/70R14;
- the service description comprising the load index and the speed symbol shall be placed near the size designation. It may either precede the size designation or follow it or be placed above or below it;
- the symbols 'TUBELESS', 'REINFORCED', and 'M+S' may be at a distance from the size designation.
- the word 'RETREAD' may be at a distance from the size designation.

ANNEX 4

LIST OF LOAD INDICES AND CORRESPONDING LOAD CAPACITIES

Load index (LI) and load capacity — kg													
LI	kg	LI	kg	LI	kg	LI	kg	LI	kg	LI	kg	LI	kg
.0	45	40	140	80	450	120	1 400	160	4 500	200	14 000	240	45 000
1	46.2	41	145	81	462	121	1 450	161	4 625	201	14 500	241	46 250
2	47.5	42	150	82	475	122	1 500	162	4 750	202	15 000	242	47 500
3	48.7	43	155	83	487	123	1 550	163	4 875	203	15 500	243	48 750
4	50	44	160	84	500	124	1 600	164	5 000	204	16 000	244	50 000
5	51.5	45	165	85	515	125	1 650	165	5 150	205	16 500	245	51 500
6	53	46	170	86	530	126	1 700	166	5 300	206	17 000	246	53 000
7	54.5	47	175	87	545	127	1 750	167	5 450	207	17 500	247	54 500
8	56	48	180	88	560	128	1 800	168	5 600	208	18 000	248	56 000
9	58	49	185	89	580	129	1 850	169	5 800	209	18 500	249	58 000
10	60	50	190	90	600	130	1 900	170	6 000	210	19 000	250	60 000
11	61.5	51	195	91	615	131	1 950	171	6 150	211	19 500	251	61 500
12	63	52	200	92	630	132	2 000	172	6 300	212	20 000	252	63 000
13	65	53	206	93	650	133	2 060	173	6 500	213	20 600	253	65 000
14	67	54	212	94	670	134	2 120	174	6 700	214	21 200	254	67 000
15	69	55	218	95	690	135	2 180	175	6 900	215	21 800	255	69 000
16	71	56	224	96	710	136	2 240	176	7 100	216	22 400	256	71 000
17	73	57	230	97	730	137	2 300	177	7 300	217	23 000	257	73 000
18	75	58	236	98	750	138	2 360	178	7 500	218	23 600	258	75 000
19	77.5	59	243	99	775	139	2 430	179	7 750	219	24 300	259	77 500
20	80	60	250	100	800	140	2 500	180	8 000	220	25 000	260	80 000
21	82.5	61	257	101	825	141	2 575	181	8 250	221	25 750	261	82 500
22	85	62	265	102	850	142	2 650	182	8 500	222	26 500	262	85 000
23	87.5	63	272	103	875	143	2 725	183	8 750	223	27 250	263	87 500
24	90	64	280	104	900	144	2 800	184	9 000	224	28 000	264	90 000
25	92.5	65	290	105	925	145	2 900	185	9 250	225	29 000	265	92 500
26	95	66	300	106	950	146	3 000	186	9 500	226	30 000	266	95 000
27	97.5	67	307	107	975	147	3 075	187	9 750	227	30 750	267	97 500
28	100	68	315	108	1 000	148	3 150	188	10 000	228	31 500	268	100 000
29	103	69	325	109	1 030	149	3 250	189	10 300	229	32 500	269	103 000
30	106	70	335	110	1 060	150	3 350	190	10 600	230	33 500	270	106 000
31	109	71	345	111	1 090	151	3 450	191	10 900	231	34 500	271	109 000
32	112	72	355	112	1 120	152	3 550	192	11 200	232	35 500	272	112 000
33	115	73	365	113	1 150	153	3 650	193	11 500	233	36 500	273	115 000
34	118	74	375	114	1 180	154	3 750	194	11 800	234	37 500	274	118 000
35	121	75	387	115	1 215	155	3 875	195	12 150	235	38 750	275	121 500
36	125	76	400	116	1 250	156	4 000	196	12 500	236	40 000	276	125 000
37	128	77	412	117	1 285	157	4 125	197	12 850	237	41 250	277	128 500
38	132	78	425	118	1 320	158	4 250	198	13 200	238	42 500	278	132 000
39	136	79	437	119	1 360	159	4 375	199	13 600	239	43 750	279	136 000

ANNEX 5

TYRE SIZE DESIGNATION AND DIMENSIONS (IN ACCORDANCE WITH ECE REGULATION No 30)

For this information refer to annex 5 of ECE Regulation No 30.

ANNEX 6

METHOD OF MEASURING PNEUMATIC TYRES

1. Preparing the tyre

1.1. The tyre shall be mounted on the test rim specified by the retreader and inflated to the pressure of 3 to 3.5 bar.

1.2. The tyre pressure shall be adjusted as follows:

1.2.1. for standard bias belted tyres — to 1.7 bar;

1.2.2. for diagonal (bias ply) tyres — to:

Ply rating	Pressure (bar) for Speed symbol		
	L, M, N	P, Q, R, S	T, U, H, V
4	1.7	2.0	—
6	2.1	2.4	2.6
8	2.5	2.8	3.0

1.2.3. for standard radial tyres — to 1.8 bar;

1.2.4. for reinforced tyres — to 2.3 bar.

2. Measuring procedure

2.1. The tyre, mounted on its rim, shall be conditioned at the ambient room temperature for not less than 24 hr, save as otherwise required by paragraph 6.8.3 of this Regulation.

2.2. The tyre pressure shall be readjusted to the level specified in paragraph 1.2 of this annex.

2.3. The overall width shall be measured at six equally spaced points around the tyre, taking account of the thickness of any protective ribs or bands. The highest reading obtained shall be taken as the overall width.

2.4. The outer diameter shall be calculated from a measurement of the maximum circumference of the inflated tyre.

ANNEX 7

PROCEDURE FOR LOAD/SPEED ENDURANCE TESTS

(In principle in accordance with annex 7 of Regulation No 30)

1. Preparing the tyre
 - 1.1. Mount a retreaded tyre on the test rim specified by the retreader.
 - 1.2. Inflate the tyre, to the appropriate pressure as given (in bar) in the table below:

Speed Category	Diagonal (bias-ply) tyres			Radial Tyres		Bias-belted tyres
	Ply-rating			Standard	Reinforced	Standard
	4	6	8			
L, M, N	2.3	2.7	3.0	2.4	—	—
P, Q, R, S	2.6	3.0	3.3	2.6	3.0	2.6
T, U, H	2.8	3.2	3.5	2.8	3.2	2.8
V	3.0	3.4	3.7	3.0	3.4	—

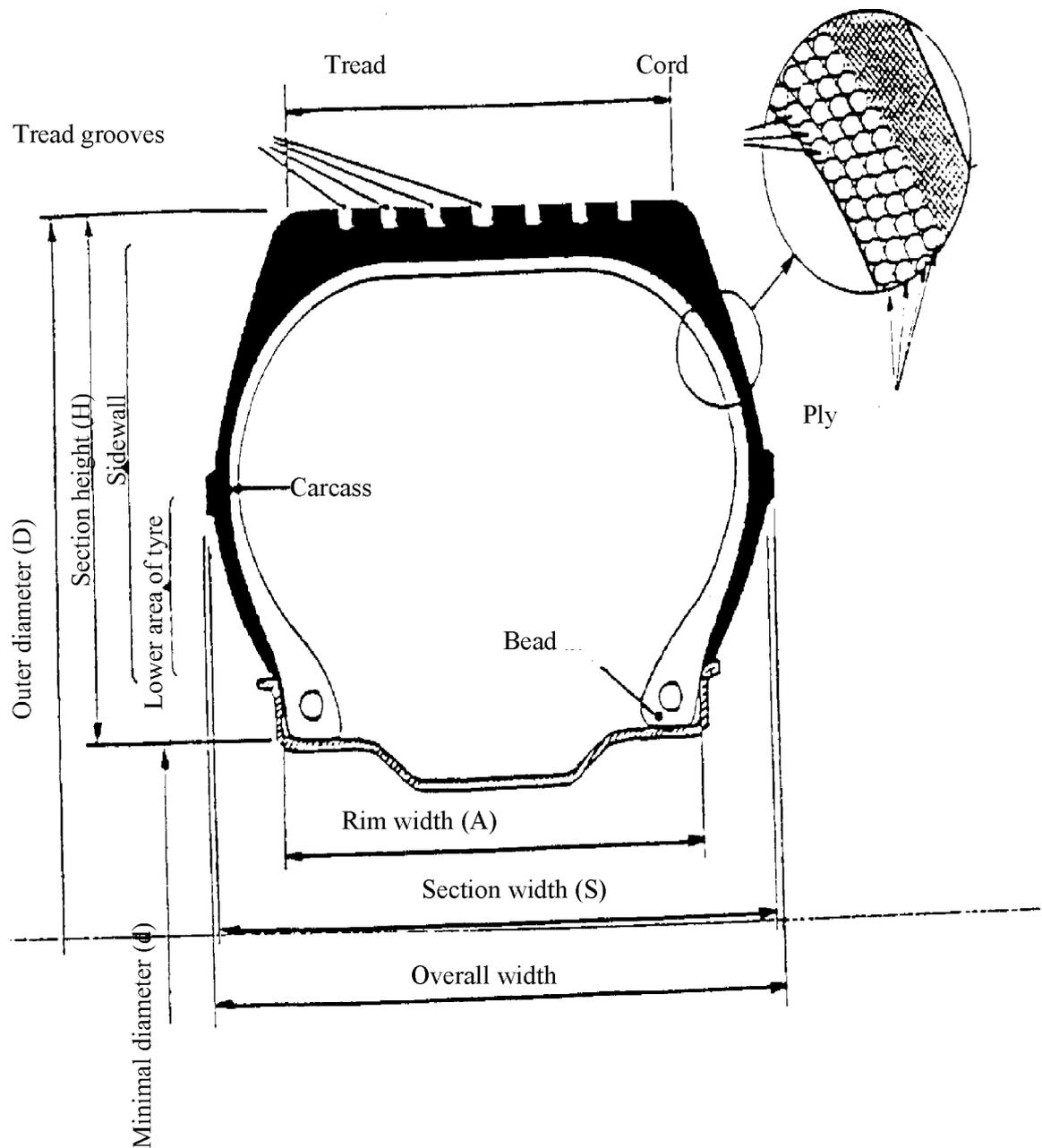
- 1.3. The retreading production unit may request, giving reasons, the use of a test inflation pressure different from those given in paragraph 1.2 of this annex. In this case the tyre shall be inflated to the requested pressure.
- 1.4. Condition the tyre and wheel assembly at test-room temperature for not less than three hours.
- 1.5. Readjust the tyre pressure to that specified in paragraph 1.2 or 1.3 of this annex.
2. Test procedure
 - 2.1. Mount the tyre and wheel assembly on a test axle and press it against the outer face of a smooth surfaced power driven test drum either 1.70 m \pm 1 per cent or 2.00 m \pm 1 per cent diameter
 - 2.2. Apply to the test axle a load equal to 80 per cent of:
 - 2.2.1. the maximum load rating corresponding to the Load Index for tyres with Speed Symbols L to H inclusive,
 - 2.2.2. the maximum load rating associated with a maximum speed of 240 km/h for tyres of Speed Symbol 'V' (see paragraph 2.32 of this Regulation).
 - 2.3. Throughout the test the tyre pressure must not be corrected and the test load must be kept constant.
 - 2.4. During the test the temperature in the test-room must be maintained at between 20° and 30 °C unless the tyre manufacturer or retreader agrees to a higher temperature.
 - 2.5. The endurance test programme shall be carried out without interruption and shall be as follows:
 - 2.5.1. time taken from zero speed to initial test speed: 10 minutes;
 - 2.5.2. initial test speed: prescribed maximum speed for the tyre concerned, less 40 km/h in the case of a test drum of 1.70 m \pm 1 per cent diameter or less 30 km/h in the case of a test drum of 2.00 m \pm 1 per cent diameter;
 - 2.5.3. successive speed increments: 10 km/h up to the maximum test speed;
 - 2.5.4. duration of test at each speed step except the last: 10 minutes;
 - 2.5.5. duration of test at last speed step: 20 minutes;
 - 2.5.6. maximum test speed: prescribed maximum speed for the tyre concerned, less 10 km/h in the case of a test drum of 1.70 m \pm 1 per cent diameter or the prescribed maximum speed in the case of a test drum of 2.00 m \pm 1 per cent diameter.
3. Equivalent test methods

If a method other than that described in paragraph 2 of this annex is used, its equivalence must be demonstrated.

ANNEX 8

EXPLANATORY FIGURE

See paragraph 2 of this Regulation



Proposal for a Council Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement

(2000/C 177 E/09)

COM(2000) 27 final — 2000/0030(CNS)

(Submitted by the Commission on 26 January 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(b)(i) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Under Article 62(2)(b) of the Treaty, the Council is to adopt rules relating to visas for intended stays of no more than three months, and in that context it is required to determine the list of those third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement⁽¹⁾. Article 61 cites those lists among the flanking measures which are directly linked to the free movement of persons in an area of freedom, security and justice.

(2) The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity.

(3) The circumstances of third-country nationals residing lawfully in a Member State and holding a residence permit issued by that State are such that further visa requirements are superfluous when they cross external borders. The principle that a residence permit is equivalent to a visa should be laid down for this category of persons, without prejudice to other conditions for entry or to other rules applying to travel within the Community by holders of residence permits.

⁽¹⁾ Under Article 1 of the Agreement concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, this proposal will have to be considered by the Joint Committee in accordance with Article 4 of the Agreement.

(4) As regards stateless persons, who have lost any links with any particular State, and recognised refugees, who are unable to avail themselves of the protection of the State of which they have the nationality, the decision as to the visa requirement or exemption should be based on a simple criterion reflecting the fact that the State where these persons reside affords them its protection and issues them with travel documents.

(5) In specific cases where special visa rules are warranted, Member States may exempt certain categories of persons from the visa requirement or impose it on them in accordance with public international law or custom.

(6) With a view to ensuring that the system is administered openly and that the persons concerned are informed, Member States should communicate to the other Member States and to the Commission the measures which they take pursuant to this Regulation. For the same reasons, that information should also be published in the *Official Journal of the European Communities*.

(7) In accordance with the principle of proportionality stated by Article 5 of the Treaty, enacting a Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders, and those whose nationals are exempt from that requirement is both a necessary and an appropriate means of ensuring that the common visa rules operate efficiently.

(8) This Regulation provides for full harmonisation as regards the third countries whose nationals are subject to the visa requirement for the crossing of Member States' external borders, and those whose nationals are exempt from that requirement. Accordingly, it is appropriate to replace existing Community law on the subject,

HAS ADOPTED THIS REGULATION:

Article 1

1. Nationals of third countries on the list in Annex I shall be required to be in possession of a visa when crossing the external borders of the Member States.

2. Nationals of third countries on the common list in Annex II shall be exempt from the requirement set out in paragraph 1.

3. Nationals of third countries formerly part of countries on the lists contained in Annexes I and II shall be subject to the requirements of paragraphs 1 and 2 unless and until the Council decides otherwise under the procedure laid down in the relevant provision of the Treaty.

Article 2

For the purposes of this Regulation, 'visa' shall mean an authorisation issued or a decision taken by a Member State which is required for entry into its territory with a view to:

- an intended stay in that Member State or in several Member States of no more than three months in all,
- transit through the territory of that Member State or several Member States, except for transit through the international zones of airports and transfers between airports in a Member State.

Article 3

For nationals of third countries listed in Annex I, a valid residence permit issued by one of the Member States shall be equivalent to a visa for the purposes of crossing external borders.

Article 4

Stateless persons and recognised refugees shall be subject to the visa requirement or shall be exempted from it on the same terms as nationals of the non-member State in which they reside and which issued their travel document.

Article 5

1. A Member State may provide for exceptions from the visa requirement provided for by Article 1(1) or for the exemption from the visa requirement provided for by Article 1(2) as regards:

- (a) holders of diplomatic passports, official-duty passports and other official passports;
- (b) civilian air and sea crew;
- (c) the flight crew and attendants on emergency or rescue flights and other helpers in the event of disaster or accident;

(d) the crew of ships navigating in international waters;

(e) the holders of official documents issued by international organisations.

2. A Member State may exempt from the visa requirement a school pupil having the nationality of a third country listed in Annex I who resides in a third country listed in Annex II and is travelling in the context of a school excursion as a member of a group of school pupils accompanied by a teacher from the school in question.

Article 6

1. Within 10 working days of the entry into force of this Regulation, Member States shall communicate to the other Member States and the Commission the list of residence permits relevant for the purposes of Article 3 and the exception measures they have taken pursuant to Article 5. Any further changes to this list and to those measures shall be similarly communicated within five working days.

2. The Commission shall publish the measures communicated pursuant to paragraph 1 in the *Official Journal of the European Communities* for information.

Article 7

1. Regulation (EC) No 574/1999 ⁽¹⁾ is replaced by this Regulation.

2. Annex I to the Common Consular Instruction and Annex V to the Common Manual, as laid down by the decision of the Schengen Executive Committee of 28 April 1999 (SCH/Com-ex(99)13) concerning the final versions of the Common Manual and the Common Consular Instruction, are replaced by Annexes I and II to this Regulation.

Article 8

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

⁽¹⁾ OJ L 72, 18.3.1999, p. 2.

ANNEX I

LIST REFERRED TO IN ARTICLE 1(1)

1. STATES

Afghanistan	Ghana	Peru
Albania	Grenada	Philippines
Algeria	Guinea	Qatar
Angola	Guinea-Bissau	Russia
Antigua and Barbuda	Guyana	Rwanda
Armenia	Haiti	Saint Kitts and Nevis
Azerbaijan	India	Saint Lucia
Bahamas	Indonesia	Saint Vincent and the Grenadines
Bahrain	Iran	São Tomé and Príncipe
Bangladesh	Iraq	Saudi Arabia
Barbados	Jamaica	Senegal
Belarus	Jordan	Seychelles
Belize	Kazakhstan	Sierra Leone
Benin	Kenya	Solomon Islands
Bhutan	Kiribati	Somalia
Bosnia and Herzegovina	Kuwait	South Africa
Botswana	Kyrgyzstan	Sri Lanka
Burkina Faso	Laos	Sudan
Burma/Myanmar	Lebanon	Surinam
Burundi	Lesotho	Swaziland
Cambodia	Liberia	Syria
Cameroon	Libya	Tajikistan
Cape Verde	Madagascar	Tanzania
Central African Republic	Malawi	Thailand
Chad	Maldives	The Comoros
China	Mali	Togo
Colombia	Marshall Islands	Tonga
Congo	Mauritania	Trinidad and Tobago
Côte d'Ivoire	Mauritius	Tunisia
Cuba	Micronesia	Turkey
Democratic Republic of the Congo	Moldova	Turkmenistan
Djibouti	Mongolia	Tuvalu
Dominica	Morocco	Uganda
Dominican Republic	Mozambique	Ukraine
Egypt	Namibia	United Arab Emirates
Equatorial Guinea	Nauru	Uzbekistan
Eritrea	Nepal	Vanuatu
Ethiopia	Niger	Vietnam
Federal Republic of Yugoslavia (Serbia-Montenegro)	Nigeria	Western Samoa
Fiji	North Korea	Yemen
Former Yugoslav Republic of Macedonia	Northern Marianas	Zambia
Gabon	Oman	Zimbabwe
Gambia	Pakistan	
Georgia	Palau	
	Papua New Guinea	

2. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE

East Timor
 Palestinian Authority
 Taiwan

ANNEX II

LIST REFERRED TO IN ARTICLE 1(2)

1. STATES

Andorra	Holy See	Romania
Argentina	Honduras	Salvador
Australia	Hungary	San Marino
Bolivia	Israel	Singapore
Brazil	Japan	Slovakia
Brunei	Latvia	Slovenia
Bulgaria	Lithuania	South Korea
Canada	Malaysia	Switzerland
Chile	Malta	United States of America
Costa Rica	Mexico	Uruguay
Croatia	Monaco	Venezuela
Cyprus	New Zealand	
Czech Republic	Nicaragua	Iceland ⁽¹⁾
Ecuador	Panama	Liechtenstein ⁽¹⁾
Estonia	Paraguay	Norway ⁽¹⁾
Guatemala	Poland	

2. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE

Hong Kong SAR
Macao SAR

⁽¹⁾ The visa exemption applicable to nationals of this country is not based on this Regulation but on the EEA Agreement.

Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents

(2000/C 177 E/10)

COM(2000) 30 final — 2000/0032(COD)

(Submitted by the Commission on 28 January 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

confirmed by Declaration No 41 attached to the Final Act of the Treaty of Amsterdam.

Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,

(6) Under Articles 28(1) and 41(1) of the Treaty on European Union, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters.

Having regard to the proposal from the Commission,

Acting in accordance with the procedure referred to in Article 251 of the Treaty,

(7) In order to bring about greater openness in the work of the institutions and in line with current national legislation in most of the Member States, access to documents should be extended to include all documents held by the European Parliament, the Council and the Commission.

Whereas:

(1) The second paragraph of Article 1 of the Treaty on European Union, as amended by the Treaty of Amsterdam, enshrines the concept of openness, stating that 'This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen'.

(8) The principles laid down by this Regulation are to be without prejudice to the specific rules applicable to access to documents, in particular those directly concerning persons with a specific interest.

(2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable vis-à-vis the citizen in a democratic system.

(9) The public interest and certain individual interests should be protected by way of a system of exceptions. Examples of these interests should be given in each case so that the system may be as transparent as possible. The institutions should also be entitled to protect their internal documents which express individual opinions or reflect free and frank discussions and provision of advice as part of internal consultations and deliberations.

(3) The conclusions of the European Councils held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. Following these conclusions, the institutions launched a series of initiatives aimed at improving the transparency of the decision-making process by targeting information and communication measures more effectively and adopting rules on public access to documents.

(10) In order to ensure that the right of access is fully observed, the present two-stage administrative procedure, with the possibility of court proceedings or complaints to the Ombudsman, should be maintained, whilst the principle should be introduced whereby at the confirmatory stage no response is treated as a positive response.

(4) The purpose of this Regulation is to widen access to documents as far as possible, in line with the principle of openness. It puts into practice the right of access to documents and lays down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.

(11) Each institution should take the measures necessary to inform the public about the new provisions in force; furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution should provide access to a register of documents.

(5) Since the question of access to documents is not covered by provisions of the ECSC and Euratom Treaties, this Regulation will apply to documents concerning the activities covered by those two Treaties. This was

(12) Even though it is neither the object nor the effect of this Regulation to amend existing national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyalty which governs relations between the Community institutions and the Member States, Member States should take care not to hamper the proper application of this Regulation.

(13) In accordance with Article 255(3) of the EC Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. Failing such provisions, this Regulation cannot be applicable. This Regulation and the provisions giving effect to it will replace Council Decision 93/731/EC of 20 December 1993 on public access to Council document ⁽¹⁾ Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents ⁽²⁾ and European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents ⁽³⁾,

HAVE ADOPTED THIS REGULATION:

Article 1

General principle and beneficiaries

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to the widest possible access to the documents of the institutions within the meaning of this Regulation, without having to cite reasons for their interest, subject to the exceptions laid down in Article 4.

Article 2

Scope

1. This Regulation shall apply to all documents held by the institutions, that is to say, documents drawn up by them or received from third parties and in their possession.

Access to documents from third parties shall be limited to those sent to the institution after the date on which this Regulation becomes applicable.

2. This Regulation shall not apply to documents already published or accessible to the public by other means.

It shall not apply where specific rules on access to documents exist.

Article 3

Definitions

For the purposes of this Regulation:

(a) 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording); only administrative

⁽¹⁾ OJ L 340, 31.12.1993, p. 43; Decision as last amended by Decision 96/705/EC, ECSC, Euratom (OJ L 325, 14.12.1996, p. 19).

⁽²⁾ OJ L 46, 18.2.1994, p. 58; Decision as amended by Decision 96/567/EC, ECSC, Euratom (OJ L 247, 28.9.1996, p. 45).

⁽³⁾ OJ L 263, 25.9.1997, p. 27.

documents shall be covered, namely documents concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility, excluding texts for internal use such as discussion documents, opinions of departments, and excluding informal messages;

(b) 'institutions' shall mean the European Parliament, the Council and the Commission;

(c) 'European Parliament' shall mean Parliament bodies (and in particular the Bureau and the Conference of Presidents), Parliamentary Committees, the political groups and departments;

(d) 'Council' shall mean the various configurations and bodies of the Council (and in particular the Permanent Representatives Committee and the working parties), the departments and the committees set up by the Treaty or by the legislator to assist the Council;

(e) 'Commission' shall mean the Members of the Commission as a body, the individual Members and their private offices, the Directorates-General and departments, the representations and delegations, committees set up by the Commission and committees set up to help it exercise its executive powers;

(f) 'third party' shall mean any natural or legal person, or any entity outside the institution, including the Member States, other Community and non-Community institutions and bodies and non-member countries.

A list of the committees referred to in points (d) and (e) of the first paragraph shall be drawn up as part of the rules giving effect to this Regulation, as provided for in Article 10.

Article 4

Exceptions

The institutions shall refuse access to documents where disclosure could significantly undermine the protection of:

- (a) the public interest and in particular:
- public security,
 - defence and international relations,
 - relations between and/or with the Member States or Community or non-Community institutions,
 - financial or economic interests,
 - monetary stability,
 - the stability of the Community's legal order,
 - court proceedings,

- inspections, investigations and audits,
 - infringement proceedings, including the preparatory stages thereof,
 - the effective functioning of the institutions;
- (b) privacy and the individual, and in particular:
- personnel files,
 - information, opinions and assessments given in confidence with a view to recruitments or appointments,
 - an individual's personal details or documents containing information such as medical secrets which, if disclosed, might constitute an infringement of privacy or facilitate such an infringement;
- (c) commercial and industrial secrecy or the economic interests of a specific natural or legal person and in particular:
- business and commercial secrets,
 - intellectual and industrial property,
 - industrial, financial, banking and commercial information, including information relating to business relations or contracts,
 - information on costs and tenders in connection with award procedures;
- (d) confidentiality as requested by the third party having supplied the document or the information, or as required by the legislation of the Member State.

Article 5

Processing of initial applications

1. All applications for access to a document shall be made in writing in a sufficiently precise manner to enable the institution to identify the document. The institution concerned may ask the applicant for further details regarding the application.

In the event of repetitive applications and/or applications relating to very large documents, the institution concerned shall confer with the applicant informally, with a view to finding a fair solution.

2. Within one month of registration of the application, the institution shall inform the applicant, in a written and reasoned reply, of the outcome of the application.

3. Where the institution gives a negative reply to the applicant, it shall inform him that, within one month of

receiving the reply, he is entitled to make a confirmatory application asking the institution to reconsider its position, failing which he shall be deemed to have withdrawn the original application.

4. In exceptional cases, the one-month time-limit provided for in paragraph 2 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.

Failure to reply within the prescribed time-limit shall be treated as a negative response.

Article 6

Processing of confirmatory applications; remedies

1. Where the applicant submits a confirmatory application, the institution shall reply to him in writing within one month of registration of the application. If the institution decides to maintain its refusal to grant access to the document requested, it shall state the grounds for its refusal and inform the applicant of the remedies open to him, namely court proceedings and a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

2. In exceptional cases, the time-limit provided for in paragraph 1 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.

Failure to reply within the prescribed time-limit shall be treated as a positive decision.

Article 7

Exercise of the right to access

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy.

The costs of his doing so may be charged to the applicant.

2. Documents shall be supplied in an existing language version, regard being had to the preference expressed by the applicant.

An edited version of the requested document shall be provided if part of the document is covered by any of the exceptions provided for in Article 4.

Article 8

Reproduction for commercial purposes or other forms of economic exploitation

An applicant who has obtained a document may not reproduce it for commercial purposes or exploit it for any other economic purposes without the prior authorisation of the right-holder.

*Article 9***Information and registers**

Each institution shall take the requisite measures to inform the public of the rights they enjoy as a result of this Regulation. Furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution shall provide access to a register of documents.

*Article 10***Effect**

Each institution shall adopt in its rules of procedure the provisions required to give effect to this Regulation. Those

provisions shall take effect on ... [three months after the adoption of this Regulation].

*Article 11***Entry into force**

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*. It shall be applicable from ... [three months from the date of adoption of this Regulation].

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

Proposal for a European Parliament and Council Decision establishing the list of priority substances in the field of water policy

(2000/C 177 E/11)

(Text with EEA relevance)

COM(2000) 47 final — 2000/0035(COD)

(Submitted by the Commission on 7 February 2000)

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

ecotoxicity and human toxicity via aquatic exposure routes,

Having regard to the Treaty establishing the European Community, and in particular to Article 175(1) thereof,

— evidence from monitoring of widespread environmental contamination and

Having regard to the Proposal from the Commission ⁽¹⁾,

— other proven factors which may indicate the possibility of widespread environmental contamination, such as production, use volume and use pattern of the substance concerned.

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

Having regard to the opinion of the Committee of the Regions,

(5) The Commission has, on this basis, developed a combined monitoring-based and modelling-based priority setting (COMMPS) scheme, in collaboration with experts of interested parties, involving the Scientific Committee for Toxicity, Ecotoxicity and the Environment, Member States, EFTA countries, the European Environment Agency, European business associations including those representing small and medium-sized enterprises and European environmental organisations.

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

Whereas:

(1) Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ⁽²⁾ and the Directives adopted within its framework represent presently the major Community instrument for the control of point and diffuse discharges of dangerous substances.

(6) A first list of 32 priority substances or groups of substances has been identified on the basis of the COMMPS procedure, following a publicly open and transparent discussion with the interested parties.

(2) The Community controls under Council Directive 76/464/EEC have been replaced, harmonised and further developed by the Directive of the European Parliament and Council establishing a framework for Community action in the field of water policy.

(7) The expeditious adoption of this list is desirable in order to allow for the timely and continuing implementation of Community controls of dangerous substances pursuant to the strategy set out in Article 16 of the European Parliament and Council Directive establishing a framework for Community action in the field of water policy.

(3) The Directive of the European Parliament and of the Council establishing a framework for Community action in the field of water policy, hereby introduces in Article 16(2) a scientifically based methodology for identifying priority substances on the basis of their risk to aquatic ecosystems.

(8) The list of priority substances adopted under this Decision shall replace the list of substances in the Communication from the Commission to the Council on dangerous substances which might be included in List I of Council Directive 76/464/EEC ⁽³⁾.

(4) The methodology set out in the Directive of the European Parliament and Council establishing a framework for Community action in the field of water policy enables, as a most practical option, the application of a simplified risk-based assessment procedure based on scientific principles taking particular account of

(9) The identification of priority substances targeted to the establishment of controls of emissions into surface waters from land-based sources contributes to the Community commitments under international conventions for the protection of marine waters, in particular to the implementation of the Strategy with regard to hazardous substances adopted at the 1998 OSPAR Ministerial Meeting under the Convention for the protection of the marine environment of the North-East Atlantic pursuant to Council Decision 98/249/EC ⁽⁴⁾.

— evidence regarding the intrinsic hazard of the substance concerned and, in particular, its aquatic

⁽¹⁾ OJ C 184, 17.6.1997, p. 20,
OJ C 16, 20.1.1998, p. 14 and OJ C 108, 7.4.1998, p. 94.

⁽²⁾ OJ L 129, 18.5.1976, p. 23.

⁽³⁾ OJ C 176, 14.7.1982, p. 3.

⁽⁴⁾ OJ L 104, 3.4.1998, p. 1.

(10) The COMMPS procedure is designed as a dynamic instrument for the prioritisation of dangerous substances open to continuous improvements and modifications with a view of possible revision and adaptation of the first priority list within at the latest within 6 years of its adoption,

HAVE ADOPTED THIS DECISION:

Article 1

The list of priority substances in the field of water policy is hereby established and is set out in the Annex to this Decision.

Article 2

The list of priority substances established by this decision replaces the list of substances in the Communication from the Commission to the Council of 22 June 1982 on

dangerous substances which might be included in List I of Council Directive 76/464/EEC.

Article 3

The list of priority substances in the field of water policy shall, on its adoption by the European Parliament and the Council, become Annex X to European Parliament and of the Council Directive establishing a framework for Community action in the field of water policy.

Article 4

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

Article 5

This Decision is addressed to the Member States.

ANNEX

List of priority substances in the field of water policy ⁽¹⁾

	CAS number	EU number	Name
(1)	15972-60-8	240-110-8	Alachlor
(2)	120-12-7	204-371-1	Anthracene
(3)	1912-24-9	217-617-8	Atrazine
(4)	71-43-2	200-753-7	Benzene
(5)	n.a.	n.a.	Brominated diphenylether ⁽¹⁾
(6)	7440-43-9	231-152-8	Cadmium and its compounds
(7)	85535-84-8	287-476-5	C ₁₀₋₁₃ -chloroalkanes
(8)	470-90-6	207-432-0	Chlorfenvinphos
(9)	2921-88-2	220-864-4	Chlorpyrifos
(10)	75-09-2	200-838-9	Dichloromethane
(11)	107-06-2	203-458-1	1,2-Dichloroethane
(12)	117-81-7	204-211-0	Di(2-ethylhexyl)phthalate (DEHP)
(13)	330-54-1	206-354-4	Diuron
(14)	115-29-7	204-079-4	Endosulfan
	959-98-8	n.a.	(alpha-endosulfan)
(15)	118-74-1	204-273-9	Hexachlorobenzene
(16)	87-68-3	201-765-5	Hexachlorobutadiene
(17)	608-73-1	210-158-9	Hexachlorocyclohexane
	58-89-9	200-401-2	(gamma-isomer, Lindane)
(18)	34123-59-6	251-835-4	Isoproturon
(19)	7439-92-1	231-100-4	Lead and its compounds
(20)	7439-97-6	231-106-7	Mercury and its compounds
(21)	91-20-3	202-049-5	Naphthalene
(22)	7440-02-0	231-111-4	Nickel and its compounds
(23)	25154-52-3	246-672-0	Nonylphenols
	104-40-5	203-199-4	(4-(para)-nonylphenol)
(24)	1806-26-4	217-302-5	Octylphenols
	140-66-9	n.a.	(para-tert-octylphenol)
(25)	n.a.	n.a.	Polyaromatic hydrocarbons
	50-32-8	200-028-5	(Benzo(a)pyrene
	205-99-2	205-911-9	Benzo(b)fluoranthene
	191-24-2	205-883-8	Benzo(g,h,i)perylene
	207-08-9	205-916-6	Benzo(k)fluoranthene
	206-44-0	205-912-4	Fluoroanthene,
	193-39-5	205-893-2	Indeno(1,2,3-cd)pyrene)
(26)	608-93-5	210-172-5	Pentachlorobenzene
(27)	122-34-9	204-535-2	Simazine
(28)	87-86-5	201-778-6	Pentachlorophenol
(29)	688-73-3	211-704-4	Tributyltin compounds
	36643-28-4	n.a.	(Tributyltin-cation)
(30)	12002-48-1	234-413-4	Trichlorobenzenes
	120-82-1	204-428-0	(1,2,4-Trichlorobenzene)
(31)	67-66-3	200-663-8	Trichloromethane (Chloroform)
(32)	1582-09-8	216-428-8	Trifluralin

⁽¹⁾ These groups of substances normally include a considerable number of individual compounds. Presently, appropriate indicative parameters cannot be given.

CAS: Chemical Abstract Service.

EU number, i.e. European Inventory of Existing Commercial Chemical Substances (EINECS) or European List of Notified Chemical Substances (ELINCS).

n.a.: not applicable

⁽¹⁾ Where groups of substances have been selected, typical individual representatives are listed in brackets as indicative parameters. The establishment of controls will be targeted to these individual substances, without prejudicing the inclusion of other individual representatives where appropriate.

Proposal for a Council Directive amending Directive 68/193/EEC on the marketing of material for the vegetative propagation of the vine

(2000/C 177 E/12)

COM(2000) 59 final — 2000/0036(CNS)

(Submitted by the Commission on 7 February 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) For the reasons explained below, Directive 68/193/EEC on the marketing of material for the vegetative propagation of the vine ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, should be amended.
- (2) In the context of consolidating the internal market, various provisions of that Directive should be amended or repealed to remove all barriers to trade likely to prevent the free movement of vine propagating material in the Community. To that end, any possibility for Member States to make unilateral derogations from the Directive should be removed.
- (3) It should be made possible, on certain conditions, to market new types of propagating material.
- (4) The Commission, assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, should be able to lay down the conditions in which the Member States may authorise the marketing of propagating materials for trials, scientific purposes or selection work.
- (5) The Member States should be authorised to adopt more stringent provisions for the marketing of propagating material in all or part of their territory than those provided for in Annexes I and II to combat organisms that appear particularly harmful to vines in the regions concerned.
- (6) In the light of the experience gained in other sectors regarding the marketing of seed and propagating material, temporary trials should be organised, subject to

certain conditions, to find better alternatives to certain provisions of the Directive.

- (7) As a result of scientific and technical progress, it is now possible to genetically modify vine varieties. When deciding whether to accept genetically modified vine varieties, the Member States should ensure that their deliberate release into the environment does not pose any risk to human health or the environment. Procedures should therefore be established for marketing propagating material of such varieties.
- (8) Regulation (EC) No 258/97 on novel foods and novel food ingredients includes provisions on genetically modified food and food ingredients; in determining whether a genetically modified vine variety can be accepted on the market and in order to protect public health, it is necessary to ensure that novel foods and novel food ingredients are subject to a safety assessment through a Community procedure by applying the authorisation procedure, evaluation principles and criteria laid down in Regulation (EC) No 258/97, including the consultation of the Scientific Committee for Food.
- (9) To ensure that the movement of vine propagating material is adequately monitored, provision should be made for batches to be accompanied by a control document.
- (10) It is desirable to ensure that genetic resources are conserved.
- (11) The procedure for close cooperation between Member States and the Commission within a Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry should be updated.
- (12) In the light of experience, various other provisions of the above Directive should be clarified and updated.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 68/193/EEC is hereby amended as follows:

1. The following sub-subparagraphs are added after Article 2(1)(A):
 - '(AA) Variety: a plant grouping within a single botanical taxon of the lowest known rank, which can be:

⁽¹⁾ OJ L 93, 17.4.1968, p. 15.

- defined by the expression of the characters resulting from a given genotype or combination of genotypes,
- distinguished from any other plant grouping by the expression of at least one of the said characters, and
- considered as an entity in view of its ability to be propagated unchanged.

(AB) Clone: a clone is the vegetative progeny of a variety true to a vinestock selected for the identity, phenotypic characters and health status of the parent plant.'

2. Article 2(1)(B) is replaced by the following:

'(B) Propagating materials:

(i) Young vine plants

- (a) rooted cuttings: ungrafted pieces of rooted vine shoot or herbaceous cutting intended for planting ungrafted or for use as rootstocks;
- (b) rooted grafts: pieces of vine shoot or herbaceous cutting joined by grafting, the underground part of which is rooted.

(ii) Parts of young vine plants:

- (a) vine shoots: one-year shoots;
- (b) herbaceous cuttings: un lignified shoots;
- (c) graftable rootstock cuttings: pieces of vine shoot or herbaceous cuttings intended to form the underground part when preparing rooted grafts;
- (d) pieces of vine shoot or herbaceous cuttings intended to form the part above ground when preparing rooted grafts or when grafting plants in situ;
- (e) nursery cuttings: pieces of vine shoot or herbaceous cuttings intended for the production of rooted cuttings.'

3. The following definition is added after Article 2(1)(D):

'(DA) Initial propagating materials: propagating materials:

- (a) which have been produced on the responsibility of the plant breeder according to accepted practices for the maintenance of the identity of the variety and, where applicable, of the clone, and for the prevention of diseases;
- (b) which are intended for the production of basic propagating materials or certified materials;

(c) which satisfy the conditions laid down in Annexes I and II for basic materials. These Annexes may be amended in accordance with the procedure laid down in Article 17 in order to set additional or more stringent conditions for the certification of initial propagating materials;

(d) which have been found by official examination to satisfy the above conditions.'

4. Article 2(1)(E) is replaced by the following:

'(E) Basic propagating materials: propagating materials:

- (a) which have been produced on the responsibility of the plant breeder according to accepted practices for the maintenance of the identity of the variety and, where applicable, of the clone, and for the prevention of diseases, and which are obtained by vegetative propagation directly from initial material;
- (b) which are intended for the production of certified materials;
- (c) which satisfy the conditions laid down in Annexes I and II for basic materials; and
- (d) which have been found by official examination to satisfy the above conditions.'

5. Article 2(1)(F)(a) is replaced by the following:

'which are obtained directly from basic materials or initial materials'.

6. The following definition is added to Article 2(1):

'(I) Marketing:

The sale, holding with a view to sale, offer for sale and any disposal, supply or transfer of propagating material to third parties, whether or not for a consideration, with a view to commercial exploitation.

The rules for the application of these provisions shall be adopted in accordance with the procedure laid down in Article 17.'

7. Article 3 is replaced by the following:

'1. The Member States shall require that vine propagating materials may not be placed on the market unless:

- they have been officially certified as "initial material", "basic material" or "certified material" or, in the case of propagating material not intended for use as rootstocks, is officially checked standard material, and
- they satisfy the conditions laid down in Annex II.

2. Notwithstanding paragraph 1, Member States may authorise producers on their own territory to place on the market appropriate quantities of propagating materials:

- (a) intended for trials or for scientific purposes;
- (b) for selection work;
- (c) intended to help preserve genetic diversity.

The conditions on which Member States may grant such authorisation may be determined in accordance with the procedure laid down in Article 17.

In the case of genetically modified material, the authorisation may be granted only if all the appropriate steps have been taken to avoid endangering human health and the environment. For the purposes of the environmental impact assessment which must be carried out in this respect, Article 5ba of this Directive shall apply *mutatis mutandis*.

3. In the case of propagating material produced by micropropagation, the following provisions may be adopted in accordance with the procedure laid down in Article 17:

- derogation from specific provisions of this Directive,
- conditions applicable to such propagating material,
- names that may be used for such propagating material.

4. In the case of officially certified material, the following may be adopted in accordance with the procedure laid down in Article 17:

- Community classes within each category,
- the conditions that apply to those classes,
- the names that apply to those classes.

The Member States may determine the extent to which they apply these Community classes for the certification of their own production.

5. The Commission, acting in accordance with the procedure laid down in Article 17, may

- (a) require that after specified dates propagating material other than for use as rootstocks may only be placed on the market if it has been officially certified as "initial material", "basic material" or "certified material"

— throughout the Community, in the case of certain vine varieties for which the Community's needs can be covered, if necessary, under a relevant programme, by propagating material officially certified as "initial material", "basic material" or "certified material", and

— in the case of propagating material of varieties other than referred to in the first indent, if intended for use in the territory of Member States which have already required, in accordance with Article 12(2) and not later than the date of adoption of this Directive, that "standard material" may no longer be marketed.

- (b) authorise the Member States, by derogation from paragraph 1, to market "standard material" for use in certain areas as rootstocks for certain varieties for which the Community's needs cannot be covered by "initial material", "basic material" or "certified material" and to lay down the conditions for such marketing.'

8. The following Article is added after Article 3:

'Article 3a

The Commission may authorise Member States, in accordance with the procedure laid down in Article 17, to adopt more stringent provisions for the marketing of propagating material in all or part of the territory of one or more Member States than those provided for in Annexes I and II in order to combat harmful organisms that appear particularly threatening to vines in the regions concerned.'

9. The following paragraph is added to Article 4:

'This provision shall not apply, in the case of grafting, to parts of young plants produced in another Member State or in a third country under Article 15(2).'

10. In Article 5, the words 'and where applicable clones,' are added after 'Each Member State shall establish a list of the vine varieties'.

11. The following paragraph is added to Article 5:

'Member States shall ensure that varieties and clones accepted into the catalogues of the other Member States are also accepted for certification in their own territory, without prejudice to Council Regulation (EC) No 1493/1999 on general rules for the classification of vine varieties (1).'

(1) OJ L 271, 21.10.1999, p. 47.

12. Article 5b is replaced by the following:

'Article 5b

1. A variety shall be deemed to be distinct if it is clearly distinguishable, by reference to the expression of the characters resulting from a particular genotype or combination of genotypes, from any other variety whose existence is a matter of common knowledge in the Community.

A variety shall be deemed to be a matter of common knowledge in the Community if, on the date on which application is duly made for its acceptance, it is either: entered in the catalogue of the Member State in question or of another Member State; or the subject of an application for acceptance in the Member State in question or in another Member State; unless the conditions referred to in the first sentence of this paragraph are no longer met in all the Member States concerned before a decision is made regarding the application for acceptance of the new variety being assessed.

2. A variety shall be deemed to be stable if the expression of the characters which are included in the examination for distinctness, as well as any others used for the variety description, remain unchanged after repeated propagation.

3. A variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in the expression of those characters which are included in the examination for distinctness, as well as any others used for describing the variety.'

13. The following Article is added after Article 5b:

'Article 5ba

1. Genetically modified varieties of vine within the meaning of Article 2(1) and (2) of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms ⁽¹⁾ shall be accepted only if all the appropriate steps have been taken to avoid endangering human health and the environment.

2. With regard to genetically modified varieties within the meaning of paragraph 1,

(a) an environmental impact assessment equivalent to the assessment provided for in Directive 90/220/EEC shall be carried out;

(b) the procedures ensuring an environmental risk assessment and other relevant information equivalent to the assessment laid down in Directive 90/220/EEC shall be introduced on a proposal from the Commission, in a Council regulation based on the appropriate legal basis in the Treaty. Until the entry into force of this regulation, genetically modified varieties may be accepted into national catalogues

only after being accepted for marketing in accordance with Directive 90/220/EEC;

(c) Articles 11 to 18 of Directive 90/220/EEC shall no longer apply to genetically modified varieties of vine authorised in conformity with the Regulation referred to in subparagraph (b) above;

(d) the technical and scientific details of implementing the environmental risk assessment shall be adopted in accordance with the procedure laid down in Article 17 of this Directive.

3. Where products derived from vine propagating material are intended to be used as a food or food ingredient falling within the scope of Regulation (EC) No 258/97 of the European Parliament and the Council of 27 January 1997 concerning novel foods and novel food ingredients, it must be ensured prior to the acceptance of genetically modified varieties of vine, that the foods or food ingredients derived therefrom do not:

— present a danger for the consumer,

— mislead the consumer,

— differ from foods or food ingredients which they are intended to replace to such an extent that their normal consumption would be nutritionally disadvantageous for the consumer.

Where material from one of the varieties referred to in this Directive is intended for use as a novel food or food ingredient covered by Regulation (EC) No 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients ⁽²⁾, the variety shall be accepted only if the food or food ingredient has already been authorised in accordance with Regulation (EC) No 258/97.

However, where the authorisation decision referred to in Regulation (EC) No 258/97 is taken in connection with the procedure for official acceptance of a variety, the procedure laid down in Article 17 of this Directive shall be followed.'

14. In Article 5c, the words ', and where applicable clones,' are added after 'The Member States shall ensure that varieties'.

15. Article 5e(2) is replaced by the following:

'All applications or withdrawals of applications for acceptance of a variety, entries in a catalogue of varieties and any amendments made to it shall be notified immediately to the other Member States and to the Commission.

The Commission may publish notifications from the Member States in the Community Catalogue.'

⁽¹⁾ OJ L 117, 8.5.1990, p. 15.

⁽²⁾ OJ L 43, 14.2.1997, p. 1.

16. The following Articles are added after Article 5e:

'Article 5f

Member States shall ensure that genetically modified varieties which have been accepted are clearly indicated as such in the catalogue of varieties. They shall further ensure that any person marketing such a variety clearly indicates in their vine sales catalogue that the variety is genetically modified.

Article 5g

1. Member States shall require that varieties, and clones where applicable, accepted into the catalogue are maintained by selection for conservation.

2. Maintenance must always be verifiable on the basis of records made by those responsible for maintenance of a variety.

3. Samples may be requested from those responsible for maintenance of a variety. Where necessary, samples may be taken officially.'

17. In Article 7, the words 'initial material,' are inserted before 'basic material'.

18. Article 8(2) is replaced by the following:

'By derogation from paragraph 1 as regards packaging, sealing and marking, Member States may authorise producers in their territory to sell in small quantities to final consumers and also to market vines in pots, crates or boxes.

The conditions on which Member States may grant such authorisation may be determined in accordance with the procedure laid down in Article 17.'

19. Article 9 is replaced by the following:

'Member States shall require packages and bundles of propagating material to be sealed officially or under official supervision, in such a manner that they cannot be opened without damaging the seal or without the official label referred to in Article 10(1) or, in the case of packaging, the packaging showing signs of tampering. To ensure proper sealing, the sealing device must comprise at least either the official label or an official seal. A decision may be taken in accordance with the procedure laid down in Article 17 as to whether a specific sealing device meets the requirements of this Article. Further sealing may take place only officially or under official supervision.'

20. Article 10 is replaced by the following:

'1. The Member States shall require that an official label in one of the official languages of the Community

conforming to the specification in Annex IV be affixed on the outside of packages and bundles of propagating material by means of the sealing device. The colour of the label shall be white with a diagonal violet stripe for initial material, white for basic material, blue for certified material and dark yellow for standard material.

2. However, Member States may authorise producers in their territory to market more than one package or bundle of grafted or rooted vines with the same characteristics using a single label conforming to the specification in Annex IV. In such cases, the packages or bundles shall be attached together in such a way that the attachment is damaged on separation and can no longer be put back. The label shall be affixed by means of the attachment. No resealing shall be authorised.

3. Member States shall require that each batch also be accompanied by a control document. The terms and conditions governing this accompanying document shall be determined in accordance with the procedure laid down in Article 17.

4. Plant passports as referred to in Commission Directive 92/105/EEC of 3 December 1992 establishing a degree of standardisation for plant passports⁽¹⁾ may constitute official labels as referred to in paragraph 1. However, all the requirements laid down in paragraph 1 for official labels must also be complied with.'

21. The following Article is added after Article 10:

'Article 10a

In the case of propagating material of a variety which has been genetically modified, any label and document, official or otherwise, which is affixed to or accompanies the batch of material under this Directive shall clearly indicate that the variety has been genetically modified.'

22. Article 11(2) is repealed.

23. Article 12 is replaced by the following:

'Member States shall ensure that propagating materials marketed according to this Directive, under either compulsory or to optional rules, are not subjected to any marketing restrictions as regards their characteristics, examination arrangements, marking and sealing other than those laid down in this Directive.'

24. Article 12a is replaced by the following:

'Member States shall ensure that propagating material of vine varieties, and where applicable clones, have been officially accepted in one of the Member States for certification and for checking as standard material in accordance with this Directive are not subjected to any marketing restrictions in their territory based on variety, without prejudice to Regulation (EC) No 1493/1999.'

⁽¹⁾ OJ L 4, 8.1.1993, p. 22.

25. Article 14(1) is replaced by the following:

'In order to eliminate any temporary difficulties in the general supply of basic material, certified material or standard material in the Community that cannot be overcome in any other way, a decision may be taken in accordance with the procedure laid down in Article 17 that the Member States should authorise, for a limited period, the marketing throughout the Community's territory of the quantity of propagating material of a category satisfying less stringent requirements needed to overcome the difficulties.'

26. The following Article is added after Article 14:

'Article 14a

For the purpose of seeking better alternatives to certain provisions of this Directive, it may be decided, in accordance with the procedure laid down in Article 17, to organise temporary experiments under specified conditions at Community level.'

27. Article 17 is replaced by the following:

'1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.'

Article 2

By derogation from Article 3(1) of Directive 68/193/EEC, Member States may, as a transitional measure until 1 January 2009, allow the marketing of standard materials intended for use as rootstocks and taken from rootstock nurseries existing at the date of entry into force of this Directive.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 2001. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Proposal for a Council Decision concerning the conclusion, on behalf of the Community, of the new Convention for the Protection of the Rhine

(2000/C 177 E/13)

COM(2000) 61 *final* — 2000/0037(CNS)

(Submitted by the Commission on 7 February 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 174(4) and the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) By Decision 77/586/EEC ⁽¹⁾, the Community concluded the Convention for the Protection of the Rhine against chemical pollution and the Additional Agreement to the Agreement, signed in Berne on 29 April 1963, concerning the International Commission for the Protection of the Rhine against Pollution.
- (2) At the 25th meeting of the Coordinating Group of the International Commission for the Protection of the Rhine, the riparian states considered it necessary to provide for a new Convention for the Protection of the Rhine and to open negotiations to that end.
- (3) The European Commission, acting on behalf of the Community, took part in these negotiations in accordance with the negotiating directives given by the Council and these negotiations were completed in January 1998.
- (4) In the light of the outcome of these negotiations, the Council decided in March 1999 that the Community would sign the new Convention for the Protection of the Rhine, subject to its eventual conclusion, and authorised this signing on behalf of the Community. The new Convention for the Protection of the Rhine was signed on 12 April 1999 in Berne (Switzerland).

(5) The Convention for the Protection of the Rhine is intended to step up multilateral cooperation towards the sustainable development of the Rhine ecosystem, prevent and control the pollution of this river, protect the environment, ensure the sustainable use of hydrological resources, improve the quality of sediments, ensure general flood prevention and protection taking account of ecological requirements, and to help restore the North Sea.

(6) Community policy relating to the environment focuses in particular on a high level of protection; it is based on the principles of precautionary measures and preventive action, the principle of rectification of damage to the environment, preferably at source, and the principle that the polluter pays. In implementing the new Convention for the Protection of the Rhine, the contracting parties should heed these same principles.

(7) The conclusion of the Convention by the European Community will contribute to the pursuit of the objectives and principles laid down in Article 174 of the Treaty establishing the European Community,

HAS DECIDED AS FOLLOWS:

Article 1

The new Convention for the Protection of the Rhine is hereby approved on behalf of the Community.

The text of the Convention is annexed to this Decision.

Article 2

The President of the Council is authorised to designate the person or persons empowered to deposit the instrument of approval with the Government of the Swiss Confederation in accordance with Article 17 of the Convention.

⁽¹⁾ OJ L 240, 19.9.1977, p. 35.

CONVENTION ON THE PROTECTION OF THE RHINE

The Governments of

the Federal Republic of Germany,

the French Republic,

the Grand Duchy of Luxembourg,

the Kingdom of the Netherlands,

the Swiss Confederation

and the European Community,

Desiring to work towards the sustainable development of the Rhine ecosystem on the basis of a comprehensive approach, taking into consideration the natural wealth of the river, its banks and alluvial areas,

Desiring to step up their cooperation on conserving and improving the Rhine ecosystem,

Referring to the Convention of 17 March 1992 on the protection and use of transboundary watercourses and international lakes and the Convention of 22 September 1992 on the protection of the marine environment of the north-east Atlantic,

Taking into account the work carried out under the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution and the Additional Agreement of 3 December 1976,

Considering that efforts must be made to further the improvement in water quality achieved under the Convention of 3 December 1976 for the protection of the Rhine against chemical pollution and under the Rhine Action Programme of 30 September 1987,

Aware that the restoration of the Rhine is also necessary to conserve and improve the ecosystem of the North Sea,

Aware of the importance of the Rhine as a European waterway and of its various uses,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Convention:

(a) 'Rhine'

means the Rhine from the outlet of Lake Untersee and, in the Netherlands, the branches Bovenrijn, Bijlands Kanaal, Pannerdensch Kanaal, IJssel, Nederrijn, Lek, Waal, Boven-Merwede, Beneden-Merwede, Noord, Oude Maas, Nieuwe Maas and Scheur and the Nieuwe Waterweg as far as the base line as specified in Article 5 in connection with Article 11 of the United Nations Convention on the Law of the Sea, the Ketelmeer and the IJsselmeer.

(b) 'Commission'

means the International Commission for the Protection of the Rhine (ICPR).

Article 2

Scope

This Convention applies to:

(a) the Rhine;

(b) ground water interacting with the Rhine;

- (c) aquatic and terrestrial ecosystems which interact or could again interact with the Rhine;
- (d) the Rhine catchment area, insofar as its pollution by noxious substances adversely affects the Rhine;
- (e) the Rhine catchment area, insofar as it is of importance for flood prevention and protection along the Rhine.

Article 3

Aims

The Contracting Parties shall pursue the following aims through this Convention:

1. sustainable development of the Rhine ecosystem, in particular through:
 - (a) maintaining and improving the quality of the Rhine's waters, including the quality of suspended matter, sediments and ground water, notably by
 - preventing, reducing or eliminating as far as possible pollution caused by noxious substances and by nutrients from point sources (e.g. industry and municipalities) and diffuse sources (e.g. agriculture and traffic) - including that from groundwater - and pollution from shipping;
 - ensuring and improving the safety of installations and preventing incidents and accidents;
 - (b) protecting populations of organisms and species diversity and reducing contamination by noxious substances in organisms;
 - (c) maintaining, improving and restoring the natural function of the waters; ensuring that flow management takes account of the natural flow of solid matter and promotes interactions between river, ground water and alluvial areas; conserving, protecting and reactivating alluvial areas as natural floodplains;
 - (d) conserving, improving and restoring the most natural habitats possible for wild fauna and flora in the water, on the river bed and banks and in adjacent areas, and improving living conditions for fish and restoring their free migration;
 - (e) ensuring environmentally sound and rational management of water resources;
 - (f) taking ecological requirements into account when implementing technical measures to develop the waterway, e.g. for flood protection, shipping or the use of hydroelectric power;
2. the production of drinking water from the waters of the Rhine;

3. improvement of sediment quality in order that dredged material may be deposited or spread without adversely affecting the environment;
4. general flood prevention and protection, taking account of ecological requirements;
5. to help restore the North Sea in conjunction with the other actions taken to protect it.

Article 4

Principles

To this end, the Contracting Parties shall be guided by the following principles:

- (a) precautionary principle;
- (b) principle of preventive action;
- (c) principle of rectification, as a priority at source;
- (d) polluter pays principle;
- (e) principle of not increasing damage;
- (f) principle of compensation in the event of major technical measures;
- (g) principle of sustainable development;
- (h) application and development of the state of the art and best environmental practice;
- (i) principle of not transferring environmental pollution from one environment to another.

Article 5

Undertakings by the Contracting Parties

To achieve the aims set out in Article 3, and in the light of the principles set out in Article 4, the Contracting Parties undertake:

1. to step up their cooperation and to inform one another, particularly regarding actions taken in their territory to protect the Rhine;
2. to implement in their territory the international measuring programmes and the studies of the Rhine ecosystem agreed upon by the Commission and to inform the Commission of the results;
3. to carry out analyses with a view to identifying the causes of and parties responsible for pollution;
4. to initiate the autonomous actions they deem necessary in their territory, and in any event ensure that

- (a) discharging of waste water liable to affect water quality is subject to prior authorisation or to general rules laying down emission limits;
 - (b) discharges of hazardous substances are gradually reduced with a view to complete elimination;
 - (c) compliance with authorisations and general rules is monitored, as are discharges;
 - (d) authorisations and general rules are periodically examined and adjusted where substantial improvements in the state of the art so permit or where the state of the receiving medium so necessitates;
 - (e) the risk of pollution from incidents or accidents is reduced as far as possible by regulations, and the requisite measures are taken in the event of an emergency;
 - (f) technical measures liable to have a serious effect on the ecosystem are subject to prior authorisation, along with the necessary conditions, or to general regulations;
5. to initiate the necessary actions in their territory to implement decisions taken by the Commission in accordance with Article 11;
6. in the event of incidents or accidents that might threaten the quality of the water of the Rhine or in the event of imminent flooding, immediately to inform the Commission and the Contracting Parties liable to be affected, in accordance with the warning and alert plans coordinated by the Commission.

Article 6

Commission

1. To implement this Convention, the Contracting Parties shall pursue their cooperation within the Commission.
2. The Commission shall have legal personality. In the territory of the Contracting Parties it shall, in particular, enjoy the legal capacity conferred on legal persons by domestic law. It shall be represented by its Chairman.
3. Questions of labour legislation and social matters shall be governed by the law of the country in which the Commission has its seat.

Article 7

Organisation of the Commission

1. The Commission shall consist of the delegations of the Contracting Parties. Each Contracting Party shall appoint its delegates, one of whom shall be head of delegation.
2. The delegations may enlist the services of experts.

3. The Commission shall be chaired for three years by each delegation in turn in the order of Contracting Parties listed in the preamble. The delegation chairing the Commission shall appoint the Chairman. The Chairman shall not act as spokesman for his delegation.

Should a Contracting Party waive its right to chair the Commission, the next Contracting Party shall take the Chair.

4. The Commission shall draft its rules of procedure and financial regulations.

5. The Commission shall decide on matters of internal organisation, the working structure it deems necessary and the annual operating budget.

Article 8

Tasks of the Commission

1. To achieve the aims set out in Article 3 the Commission shall accomplish the following tasks:

- (a) prepare international measuring programmes and studies of the Rhine ecosystem and make use of their results, in cooperation with scientific institutions if necessary;
- (b) make proposals for individual measures and programmes of measures, where appropriate including economic instruments and taking into account the expected costs;
- (c) coordinate the Contracting States' warning and alert plans for the Rhine;
- (d) evaluate the effectiveness of the actions decided upon, notably on the basis of the reports of the Contracting Parties and the results of the measuring programmes and studies of the Rhine ecosystem;
- (e) carry out any other tasks entrusted to it by the Contracting Parties.

2. To this end, the Commission shall take decisions in accordance with Articles 10 and 11.

3. The Commission shall submit an annual activity report to the Contracting Parties.

4. The Commission shall inform the public as to the state of the Rhine and the results of its work. It may draft and publish reports.

Article 9

Plenary sessions of the Commission

1. At the invitation of the Chairman, the Commission shall meet for one plenary session per year.

2. Extraordinary plenary sessions may be called by the Chairman, upon his initiative or at the request of at least two delegations.

3. The Chairman shall propose the agenda. Each delegation shall have the right to have items included on the agenda that it wishes to have discussed.

Article 10

Decision-making in the Commission

1. Decisions of the Commission shall be taken unanimously.
2. Each delegation shall have one vote.
3. If measures to be carried out by the Contracting Parties in accordance with Article 8(1)(b) fall within the competence of the European Community, the latter shall vote with the number of votes corresponding to the number of its Member States which are Contracting Parties to this Convention, notwithstanding paragraph 2 above. The European Community shall not vote in cases where its Member States vote and vice versa.
4. Abstention of only one delegation shall not constitute an impediment to unanimity. This shall not apply to the delegation of the European Community. Absence of a delegation shall be considered as abstention.
5. The rules of procedure may provide for a written procedure.

Article 11

Implementation of Commission Decisions

1. The Commission shall communicate to the Contracting Parties, in the form of recommendations, its decisions on the measures referred to in Article 8(1)(b), which shall be implemented in accordance with the national law of the Contracting Parties.
2. The Commission may stipulate that these decisions
 - (a) shall be applied by the Contracting Parties on the basis of a timetable;
 - (b) shall be implemented in a coordinated manner.
3. The Contracting Parties shall report regularly to the Commission on:
 - (a) the legislative, regulatory and other measures they have taken with a view to implementing the provisions of this Convention and on the basis of the Commission's decisions;
 - (b) the results of the measures implemented in accordance with subparagraph (a);

(c) problems arising in the implementation of the measures referred to in subparagraph (a).

4. If a Contracting Party cannot implement the Commission's decisions, in full or in part, it shall report this within a specific time limit set by the Commission on a case-by-case basis and shall give its reasons. Each delegation may submit a request for consultation, to which a response must be given within two months.

On the basis of the reports from the Contracting Parties or of consultations, the Commission may decide that measures will be taken to assist the implementation of the decisions.

5. The Commission shall keep a list of its decisions addressed to the Contracting Parties. The Contracting Parties shall add to the list annually with updates on the progress made in implementing the Commission's decisions, at the latest two months before the Plenary Session of the Commission.

Article 12

Secretariat of the Commission

1. The Commission shall have a permanent secretariat, which shall carry out the tasks entrusted to it by the Commission and be headed by an executive secretary.
2. The Contracting Parties shall decide on the headquarters of the secretariat.
3. The Commission shall appoint the executive secretary.

Article 13

Distribution of costs

1. Each Contracting Party shall bear the costs of its representation in the Commission and its working structure, and each Contracting State shall bear the costs of the studies and actions it carries out within its territory.
2. The distribution of costs relating to the annual operating budget between the Contracting Parties shall be laid down in the Commission's rules of procedure and financial regulations.

Article 14

Cooperation with the other States, other organisations and external experts

1. The Commission shall cooperate with other intergovernmental organisations and may address recommendations to them.
2. The Commission may recognise as observers:
 - (a) States that have an interest in the work of the Commission;
 - (b) intergovernmental organisations whose work is related to the Convention;
 - (c) non-governmental organisations, insofar as their field of interest or activities are relevant.

3. The Commission shall exchange information with non-governmental organisations insofar as their fields of interest or activities are relevant. The Commission shall in particular consult such organisations before discussing decisions liable to have an important impact on them and shall inform them as soon as such decisions have been taken.

4. Observers may submit to the Commission any information or reports relevant to the aims of the Convention. They may be invited to participate in Commission meetings without having the right to vote.

5. The Commission may decide to consult specialists representing the recognised non-governmental organisations or other experts and invite them to its meetings.

6. The conditions for cooperation and those for eligibility and participation shall be laid down in the rules of procedure and financial regulations.

Article 15

Working languages

The working languages of the Commission shall be German, French and Dutch. Detailed arrangements shall be laid down in the rules of procedure and financial regulations

Article 16

Settlement of disputes

1. If a dispute arises between Contracting Parties regarding the interpretation or application of this Convention, the Parties concerned shall seek a solution through negotiation or any form of dispute settlement acceptable to them.

2. If the dispute cannot be settled in this manner, it shall, unless the Parties to the dispute decide otherwise, be submitted, at the request of one of them, to arbitration in accordance with the provisions of the Annex to this Convention, which shall form an integral part thereof.

Article 17

Entry into force

Each Contracting Party will notify the Government of the Swiss Confederation once it has completed the procedures necessary to bring this Convention into force. The Government of the Swiss Confederation will confirm the receipt of notifications and also inform the other Contracting Parties. The Convention will enter into force on the first day of the second month following receipt of the last notification.

Article 18

Withdrawal

1. Three years after its entry into force, any of the Contracting Parties may at any time withdraw from this Convention by means of a written declaration to the Government of the Swiss Confederation.

2. Withdrawal from of the Convention shall take effect only at the end of the following year.

Article 19

Repeal and continued application of current law

1. With the entry into force of this Convention and notwithstanding paragraphs 2 and 3 of this Article, the following shall be repealed:

(a) Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution,

(b) Additional Agreement of 3 December 1976 to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution,

(c) Convention of 3 December 1976 for the protection of the Rhine against chemical pollution.

2. Decisions, recommendations, limit values and any other arrangements adopted on the basis of the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution, the Additional Agreement of 3 December 1976 and the Convention of 3 December 1976 for the protection of the Rhine against chemical pollution shall remain applicable without any change to their legal nature, provided the Commission does not explicitly repeal them.

3. The distribution of costs relating to the annual operating budget defined in Article 12 of the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution as amended by the Additional Agreement of 3 December 1976 shall remain in force until the Commission has established a distribution in its rules of procedure and financial regulations.

Article 20

Original and Deposit

This Convention, drafted in the Dutch, French and German languages, each of the three texts being equally authentic, is deposited with the Government of the Swiss Confederation, which will transmit a certified copy to each of the Contracting Parties.

ANNEX

Arbitration

1. Unless the parties to the dispute decide otherwise, the arbitration procedure shall be conducted in accordance with the provisions of this Annex.
2. The arbitral tribunal shall consist of three members. The claimant and the defendant shall appoint one arbitrator each; the two arbitrators so appointed shall by common consent designate a third who shall chair the tribunal.

If the chair of the arbitral tribunal has not been appointed within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall appoint an arbitrator within two further months at the request of the first party to act.

3. If one of the parties to the dispute has not appointed a member of the tribunal within two months of receipt of the request provided for in Article 16 of the Convention, the other party may submit the matter to the President of the International Court of Justice who shall appoint the chair of the arbitral tribunal within a further two months. Once appointed, the chair shall request the party which has not yet appointed an arbitrator to do so within two months. Upon expiry of this time limit he or she shall submit the matter to the President of the International Court of Justice who shall make this appointment within a further two months.
4. If, in one of the cases referred to above, the President of the International Court of Justice is prevented from acting or is a national of one of the parties to the dispute, the Vice-President of the Court or the most senior member of the Court who is not prevented from acting and is not a national of one of the parties to the dispute shall appoint the chair of the arbitral tribunal or an arbitrator.
5. These provisions shall apply, *mutatis mutandis*, to the filling of posts which have become vacant.
6. The arbitral tribunal shall decide on the basis of the rules of international law and in particular on the basis of the provisions of this Convention.
7. As regards both procedural and substantive matters, the arbitral tribunal shall decide by a majority of its members' votes; the absence or abstention of one of the members of the tribunal appointed by the parties shall not prevent the tribunal from reaching a decision. In the event of parity of votes, the chairman shall have the casting vote. The decisions of the Tribunal shall be binding on the parties. Each party shall bear the costs of the arbitrator appointed by it and shall share the other costs equally. For other matters, the arbitral tribunal shall establish its own rules of procedure.
8. In the case of a dispute between two Contracting Parties, only one of which is a Member State of the European Community, which is itself a Contracting Party, the other Party shall simultaneously transmit its request to that Member State and to the Community, which shall jointly notify the party within two months following receipt of the request whether the Member State, the Community or the Member State and the Community together are parties to the dispute. If such notification is not given within the appointed time, both the Member State and the Community shall be regarded as constituting one and the same party to the dispute for the purposes of applying this Annex. The same shall obtain when the Member State and the Community are jointly a party to the dispute.

Protocol of signature

In signing the Convention for the Protection of the Rhine, the heads of delegation in the ICPR agree upon the following points.

1. The following shall remain unaffected by the Convention:
 - (a) the Convention of 3 December 1976 for the protection of the Rhine against Pollution by Chlorides;
 - (b) the Exchange of letters of 29 April/13 May 1983 on the abovementioned Convention, which exchange entered into force on 5 July 1985;
 - (c) the Declaration of 11 December 1986 of the heads of delegation of the Governments Party to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution;
 - (d) the Additional Protocol of 25 September 1991 on the Convention of 3 December 1976 for the protection of the Rhine against Pollution by Chlorides;
 - (e) the Declaration of 25 September 1991 of the heads of delegation of the Governments Party to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution.

2. 'State of the art' and 'best available techniques' are synonymous expressions and, like the expression 'best environmental practice', must be understood as defined in the Convention of 17 March 1992 on the protection and use of transboundary watercourses and international lakes (Annexes I and II) and the Convention of 22 September 1992 for the protection of the marine environment of the north-east Atlantic (Appendix 1).
 3. The Commission shall continue to have its seat in Koblenz.
 4. In cases of settlements of disputes between Member States of the European Community which do not concern any other State, Article 219 of the Treaty establishing the European Community shall apply.
-

Proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements

(2000/C 177 E/14)

COM(2000) 95 final — 2000/0042(CNS)

(Submitted by the Commission on 21 February 2000)

THE COUNCIL OF THE EUROPEAN UNION,

must be adopted in accordance with the management procedure laid down in Article 4 thereof.

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

(8) The Treaty does not provide, for the adoption of this Regulation, powers other than those laid down in Article 308,

Having regard to the proposal from the Commission,

HAS ADOPTED THIS REGULATION:

Having regard to the opinion of the European Parliament,

Article 1

Whereas:

1. The Community shall contribute financially to the establishment and operation of the bodies listed in the Annex, which have been set up by the international community following conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements.

(1) To help resolve conflicts, the international community may set up bodies to take charge of the interim civilian administration of certain regions and implement peace agreements.

2. Amendments to the Annex shall be decided by the Council acting by a qualified majority on a proposal from the Commission.

(2) The European Community must be able to play a full role in the establishment and operation of such bodies.

Article 2

(3) A legal framework should be established to cover the Community's financial contribution to such bodies and ensure its transparency.

1. The financing shall be in the form of a grant to the budget of the bodies referred to in Article 1.

(4) Two such bodies have been set up, one in Kosovo and one in Bosnia-Herzegovina, respectively, the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Office of the High Representative in Bosnia-Herzegovina (OHR).

2. The financing decisions shall be adopted in accordance with the procedure laid down in Article 4(2).

Article 3

(5) A legal basis should therefore be laid down to enable the Community to contribute to the operation of both bodies.

1. Operations covered by this Regulation and financed by the budget of the Communities shall be implemented by the Commission in conformity with the Financial Regulation applicable to the general budget of the European Communities.

(6) The same legal basis should also be able to cover the Community's participation in the establishment and operation of similar bodies which may be set up in future by the international community, should the Community decide to support them.

2. The amount of the grant, the eligible expenditure, the period covered, the implementing procedures and procedures for verifying the management and ultimate destination of the Community grant shall be the subject of a financing agreement between the Commission, acting on behalf of the Community, and the recipient bodies.

Article 4

(7) As the measures required to implement this Regulation constitute management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 29 June 1999 laying down the procedures for the exercise of the implementing powers conferred on the Commission, they

1. The Commission shall be assisted by a management committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. Where this paragraph is referred to, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply.

3. The period as provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

Article 5

Financing decisions and any contracts or implementing instruments resulting therefrom shall expressly provide that the Commission or bodies authorised by the Commission,

the Court of Auditors and the Anti-Fraud Office (OLAF) may carry out inspections on the spot, if necessary.

Article 6

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

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

ANNEX

Bodies referred to in Article 1 of this Regulation

United Nations Interim Administration Mission in Kosovo (UNMIK). The fourth pillar.

Office of the High Representative in Bosnia-Herzegovina (OHR).

Proposal for a Council Directive amending Directives 69/169/EEC and 92/12/EEC as regards temporary quantitative restrictions on beer imports into Finland

(2000/C 177 E/15)

COM(2000) 76 final — 2000/0038(CNS)

(Submitted by the Commission on 23 February 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Article 26 of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products⁽¹⁾, grants Finland the right to maintain a quantitative limit for beer acquisitions from other Member States of 15 litres, as laid down in the Act of Accession of Austria, Finland and Sweden, which are exempted from Finnish taxes.
- (2) Finland should take measures to ensure that imports of beer from third countries are not allowed under more favourable conditions than such imports from other Member States.
- (3) Article 26 of Directive 92/12/EEC authorises Finland until 31 December 2003 to continue to apply the same restrictions on the quantity of goods which may be brought into its territory without further excise-duty payment as it applied on 31 December 1996, those restrictions being progressively removed.
- (4) Articles 4 and 5 of Council Directive 69/169/EEC of 28 May 1969 on the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover taxes and excise duty on imports in international travel⁽²⁾, provides for allowances in respect of excisable goods contained in the personal luggage of travellers coming from countries other than Member States on condition that such imports have no commercial character.

(5) The provisions of Article 26 of Directive 92/12/EEC represent a derogation from a fundamental principle of the internal market, namely the right of its citizens to transport goods purchased for their own use throughout the Community without incurring liability to new duty charges, so that it is necessary to limit its effects as far as possible.

(6) It is appropriate, at this juncture, to raise the current quantitative limit for beer acquisitions from other Member States in several steps in order to align Finland gradually on the Community rules laid down in Articles 8 and 9 of Directive 92/12/EEC and to ensure a complete removal of intra-Community allowances for beer by 31 December 2003, as provided for in Article 26(1) of that Directive.

(7) Finland has experienced problems in respect of alcohol policy and social and health policy, as well as public order, as a result of increased private imports *inter alia* of beer.

(8) Finland has requested a derogation to apply a limitation for beer imports from countries other than Member States, of not less than 6 litres.

(9) Account is taken of the geographical situation of Finland, the economic difficulties of Finnish retail traders located in the border regions and the considerable loss of revenues caused by the increased imports of beer from countries other than Member States.

(10) It is therefore necessary to authorise Finland to apply a restriction of not less than 6 litres on beer imports from countries other than Member States.

(11) It is appropriate to maintain this derogation two years longer than the restriction on beer brought to Finland from other Member States, in order to allow the Finnish retail trade to adapt to the new situation,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 5 of Directive 69/169/EEC, the following paragraph is added:

'9. By way of derogation from Article 4(1), Finland shall be authorised to apply a quantitative limit of not less than 6 litres for the importation of beer from countries other than Member States, until 31 December 2005.'

⁽¹⁾ OJ L 76, 23.3.1992, p. 1; Directive as last amended by Directive 96/99/EC (OJ L 8, 11.1.1997, p. 12).

⁽²⁾ OJ L 133, 4.6.1969, p. 6; Directive as last amended by Directive 94/4/EC (OJ L 60, 3.3.1994, p. 14).

Article 2

In the second subparagraph of Article 26(1) of Directive 92/12/EEC, the following sentence is added:

'Finland shall increase the quantitative restrictions for beer to at least 24 litres from the entry into force of the Finnish legislation implementing Article 5(9) of Directive 69/169/EEC, to at least 32 litres from 1 January 2001 and to at least 64 litres from 1 January 2003.'

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 April 2000 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a

reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Proposal for a Council Regulation amending Regulation (EEC) No 918/83 as regards a temporary derogation for duty-free imports of beer into Finland

(2000/C 177 E/16)

COM(2000) 76 final — 2000/0039(CNS)

(Submitted by the Commission on 23 February 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Article 26 of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products ⁽¹⁾, grants Finland the right to maintain a quantitative limit for beer acquisitions from other Member States of 15 litres, as laid down in the Act of Accession of Austria, Finland and Sweden, which are exempted from Finnish taxes.
- (2) Finland should take measures to ensure that imports of beer from third countries are not allowed under more favourable conditions than the acquisitions from other Member States.
- (3) Whereas Article 45 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a system of reliefs from customs duty ⁽²⁾, provides that goods contained in the personal luggage of travellers coming from a third country shall be admitted free of import duties, provided that such imports are of a non-commercial nature.
- (4) In accordance with Article 47 of Regulation (EEC) No 918/83, the total value of beer admissible free of import duties may not exceed 175 euro per traveller; in accordance with the second subparagraph of Article 47, Member States may reduce this amount to 90 euro for travellers under 15 years of age.

(5) Finland has requested a derogation from these values and has asked to apply a quantitative limitation for duty-free beer imports from third countries.

(6) A limit of not less than 6 litres of beer seems appropriate, regard being had to the geographical situation of Finland and the economic difficulties of Finnish retailers located in the border regions and the considerable loss of revenues caused by the increased duty-free imports of beer from third countries.

(7) It is necessary to set a time-limit for this derogation in order to ensure that the equal treatment of travellers throughout the Community is ensured after a transitional period.

(8) It is appropriate to maintain this derogation two years longer than the restriction for beer brought to Finland from other Member States, in order to allow the Finnish retail trade to adapt to the new situation,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EEC) No 918/83, the following Article 47b is inserted:

'Article 47b

By way of derogation from the values set out in Article 47, Finland shall be authorised until 31 December 2005 to apply a quantitative limit of not less than 6 litres for duty-free imports of beer.'

Article 2

This Regulation shall enter into force on 1 April 2000.

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

⁽¹⁾ OJ L 76, 23.3.1992, p. 1; Directive as last amended by Directive 96/99/EC (OJ L 8, 11.1.1997, p. 12).

⁽²⁾ OJ L 105, 23.4.1983, p. 1; Regulation as last amended by Regulation (EC) No 355/94 (OJ L 46, 18.2.1994, p. 5).

Proposal for a directive of the European Parliament and of the Council amending Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road

(2000/C 177 E/17)

(Text with EEA relevance)

COM(2000) 106 final — 2000/0044(COD)

(Submitted by the Commission on 28 Februar 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty,

Whereas:

- (1) Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ⁽¹⁾ laid down uniform rules for the transportation of dangerous goods in the Community.
- (2) The Annexes to Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road ⁽²⁾ are related to the Annexes to Directive 94/55/EC. Adaptation to scientific and technical progress of Annexes to Directive 94/55/EC may have an effect on the Annexes to Directive 95/50/EC.
- (3) Adaptation to scientific and technical progress of Annexes to Directive 94/55/EC is made using a Committee procedure.
- (4) It must be possible to adapt the Annexes to Directive 95/50/EC rapidly to scientific and technical progress. For that purpose, also for this Directive, a Committee should be set up.
- (5) Since the measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.

(6) Annex I to Directive 95/50/EC should be amended in order to take into account Commission Directive 1999/47/EC of 21 May 1999 adapting for the second time to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ⁽⁴⁾.

(7) Directive 95/50/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 95/50/EC is hereby amended as follows:

1. The following Articles shall be inserted:

'Article 9a

The amendments necessary to adapt the Annexes to scientific and technical progress in the fields covered by this Directive, in particular to take account of amendments to Directive 94/55/EC, shall be adopted in accordance with the procedure laid down in Article 9b.

Article 9b

1. The Commission shall be assisted by the committee on the transport of dangerous goods instituted by Article 9 of Directive 94/55/EC ⁽⁵⁾, composed of representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 (3) and Article 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.'

2. Annex I is amended as follows:

(a) In item 13 'Gross mass of dangerous goods by transport unit' shall be replaced by 'Total quantity of dangerous goods per transport unit';

⁽¹⁾ OJ L 319, 12.12.1994, p. 7.

⁽²⁾ OJ L 249, 17.10.1995, p. 35.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁴⁾ OJ L 169, 5.7.1999, p. 1.

⁽⁵⁾ OJ L 319, 12.12.1994, p. 7.

- (b) In item 15 'battery of receptacles' shall be replaced by 'battery vehicle';
- (c) In item 32 'Tool set for temporary repairs' shall be replaced by 'One handlamp for each member of the vehicle crew';
- (d) In item 34 'Two orange-coloured lights' shall be replaced by 'Two self-standing warning signs';
- (e) In item 36 'Driver's personal protective equipment' shall be replaced by 'A suitable warning vest or warning clothing for each member of the vehicle crew'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than ...⁽¹⁾. They shall forthwith inform the Commission thereof.

When Member States adopt those measures they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

⁽¹⁾ 6 months from the date of entry into force of this Directive.

Proposal for Council Regulation amending Regulation (EC) No 974/98 on the introduction of the euro

(2000/C 177 E/18)

COM(2000) 346 final — 2000/0137(CNS)

(Submitted by the Commission on 30 May 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 123(4), third sentence, and (5) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Central Bank,

Whereas:

- (1) Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽¹⁾ provides for the substitution of the euro for the currencies of the Member States which fulfilled the necessary conditions for the adoption of the single currency at the time when the Community entered the third stage of Economic and Monetary Union; whereas this Regulation also includes rules which apply to the national currency units of these Member States during the transitional period ending on 31 December 2001, and rules on banknotes and coins;
- (2) Decision of 3 May 1998 in accordance with Article 121(4) of the Treaty (98/317/EC) stipulated that Greece did not fulfil the necessary conditions for the adoption of the single currency;
- (3) Pursuant to Decision of 20 June 2000 in accordance with Article 122(2) of the Treaty (. . ./EC) Greece now fulfils the necessary conditions and the derogation of Greece is abrogated with effect from 1 January 2001;
- (4) The introduction of the euro in Greece requires the extension to Greece of the provisions on the introduction of the euro which are applicable in the Member States in which the euro was introduced when the Community entered the third stage of Economic and Monetary Union;

(5) For Member States whose currency is replaced by the euro after the date at which the Community entered the third stage of Economic and Monetary Union, the definition of 'national currency units' should refer to the unit of the Member State's currency as it was defined immediately before the introduction of the euro in that Member State,

(6) The provisions on the transitional period apply as from 1 January 2001 in the case of Greece,

HAS ADOPTED THIS REGULATION:

Article 1

1. Article 1 of Regulation (EC) No 974/98 shall be amended as follows:

- in the first indent, the word 'Greece' shall be inserted between the words 'Germany' and 'Spain',
- in the third indent, the words 'or in accordance with the fifth paragraph of this article' shall be added at the end,
- in the fifth indent, the words 'or, as the case may be, on the day before the euro is substituted for the currency of a Member State which adopts the euro at a later date' shall be added at the end.

2. The first sentence of Article 2 of Regulation (EC) No 974/98 shall be replaced by the following: 'As from 1 January 1999 the currency of the participating Member States except Greece shall be the euro. As from 1 January 2001 the currency of Greece shall be the euro.'

Article 2

This Regulation shall enter into force on 1 January 2001.

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

⁽¹⁾ OJ L 139, 11.5.1998, pp. 1-5.

Proposal for Council Regulation amending Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro

(2000/C 177 E/19)

COM(2000) 346 final — 2000/0134(CNS)

(Submitted by the Commission on 30 May 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Central Bank,

Whereas:

(1) Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro ⁽¹⁾ includes rules on the adoption of the conversion rates between the euro and the currencies of the Member States which adopt the euro and on the use of these rates for conversions of monetary amounts; whereas these rules apply to the conversion rates of the currencies of those Member States which adopted the euro when the Community entered the third stage of Economic and Monetary Union; whereas it is necessary to extend the rules to the conversion rates of the currencies of any Member States which adopt the euro at a later date;

(2) For Member States whose currency is replaced by the euro after the date at which the Community entered the third stage of Economic and Monetary Union, the definition of 'national currency units' should refer to the unit of the Member State's currency as it was defined immediately before the introduction of the euro in that Member State,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EC) No 1103/97,

- the words 'or in accordance with the fifth paragraph of this article' shall be added at the end of the third indent,
- the words 'or, as the case may be, on the day before the euro is substituted for the currency of a Member State which adopts the euro at a later date' shall be added at the end of the fourth indent.

Article 2

This Regulation shall enter into force on 1 January 2001.

⁽¹⁾ OJ L 162, 14.6.1997, pp. 1-3.

Proposal for Council Regulation amending Regulation (EC) No 2866/98 on the conversion rates between the euro and the currencies of the Member States adopting the euro

(2000/C 177 E/20)

COM(2000) 346 final — 2000/0138(CNB)

(Submitted by the Commission on 30 May 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 123(4), first sentence, and (5) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank,

Whereas:

- (1) Regulation (EC) No 2866/98 of 31 December 1998 on the conversion rates between the euro and the currencies of the Member States adopting the euro ⁽¹⁾ determines the conversion rates as from 1 January 1999 pursuant to Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽²⁾;
- (2) Decision of 3 May 1998 in accordance with Article 121(4) (98/317/EC) stipulated that Greece did not fulfil the necessary conditions for the adoption of the single currency;
- (3) Pursuant to Decision of 20 June 2000 in accordance with Article 122(2) of the Treaty (. . . /EC) Greece now fulfils the necessary conditions, and the derogation of Greece is abrogated with effect from 1 January 2001;

(4) Pursuant to Regulation (EC) No 974/98, as amended by Regulation (EC) No . . . , the currency of Greece will be the euro as from 1 January 2001;

(5) The introduction of the euro in Greece requires the adoption of the conversion rate between the euro and the drachma,

HAS ADOPTED THIS REGULATION:

Article 1

In the list of conversion rates in Article 1 of Regulation (EC) No 2866/98, the following shall be inserted between the rates of the German mark and the Spanish peseta:

'= 340.750 Greek drachma'.

Article 2

This Regulation shall enter into force on 1 January 2001.

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

⁽¹⁾ OJ L 359, 31.12.1998, pp. 1-2.

⁽²⁾ OJ L 139, 11.5.1998, pp. 1-5.