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## Legislation

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## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 18 December 1978

on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer

(79/112/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 227 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas differences which exist at present between the laws, regulations and administrative provisions of Member States on the labelling of foodstuffs impede the free circulation of these products and can lead to unequal conditions of competition;

Whereas, therefore, approximation of these laws would contribute to the smooth functioning of the common market;

Whereas the purpose of this Directive should be to enact Community rules of a general nature applicable horizontally to all foodstuffs put on the market;

Whereas rules of a specific nature which apply vertically only to particular foodstuffs should be laid down in provisions dealing with those products;

Whereas, moreover, the field of application of this Directive should be limited to foodstuffs intended for sale to the ultimate consumer, and the rules governing the labelling of products intended for subsequent processing or preparation should be fixed at a later stage;

Whereas the prime consideration for any rules on the labelling of foodstuffs should be the need to inform and protect the consumer;

Whereas, therefore, a list should be drawn up of all information which should in principle be included in the labelling of all foodstuffs;

Whereas, however, the horizontal nature of this Directive does not allow, at the initial stage, the inclusion in the compulsory indications of all the indications which must be added to the list applying in principle to the whole range of foodstuffs; whereas, during the second stage, Community provisions should be adopted, aimed at supplementing the existing rules; whereas it would accordingly seem necessary to adopt as a matter of priority Community provisions regarding the indication of certain ingredients in the sales description or by indicating a quantity;

<sup>(1)</sup> OJ No C 91, 22. 4. 1976, p. 3.

<sup>(2)</sup> OJ No C 178, 2. 8. 1976, p. 52.

<sup>(3)</sup> OJ No C 285, 2. 12. 1976, p. 3.

Whereas, furthermore, if in the absence of Community rules of a specific nature Member States should retain the right to lay down certain national provisions which may be added to the general provisions of this Directive, nevertheless these provisions should be subject to a Community procedure;

Whereas the said Community procedure may consist simply in informing the Commission and the Member States when the matter concerns the maintenance of national provisions that precede this Directive, but must be that of a Community Decision when a Member State wishes to enact new legislation;

Whereas provision should also be made for the Community legislator to derogate, in exceptional cases, from certain obligations that have been fixed generally;

Whereas the rules on labelling should also prohibit the use of information that would mislead the purchaser or attribute medicinal properties to foodstuffs; whereas, to be effective, this prohibition should also apply to the presentation and advertising of foodstuffs;

Whereas Member States should retain the right, depending on local conditions and circumstances, to lay down rules in respect of the labelling of foodstuffs sold in bulk; whereas, in such cases, information should nevertheless be provided for the consumer;

Whereas, with the aim of simplifying and accelerating the procedure, the Commission should be entrusted with the task of adopting implementing measures of a technical nature;

Whereas in all cases where the Council makes the Commission responsible for implementing rules laid down in respect of foodstuffs, provision should be made for a procedure instituting close cooperation between Member States and the Commission within the Standing Committee on Foodstuffs, set up by Decision 69/414/EEC <sup>(1)</sup>;

Whereas foodstuffs in Greenland are manufactured and marketed under conditions fundamentally different from those prevailing in the other parts of

the Community because of the island's general situation and, in particular, because of its commercial structures, low population, considerable area and special geographical situation,

HAS ADOPTED THIS DIRECTIVE:

### *Article 1*

1. This Directive concerns the labelling of foodstuffs to be delivered as such to the ultimate consumer and certain aspects relating to the presentation and advertising thereof.
2. Without prejudice to the Community provisions to be adopted in this field, this Directive shall apply also to foodstuffs intended for supply to restaurants, hospitals, canteens and other similar mass caterers, in so far as the Member States shall so decide.
3. For the purpose of this Directive,
  - (a) 'labelling' shall mean any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a foodstuff and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such foodstuff;
  - (b) 'pre-packaged foodstuff' shall mean any single item for presentation as such to the ultimate consumer, consisting of a foodstuff and the packaging into which it was put before being offered for sale, whether such packaging encloses the foodstuff completely or only partially, but in any case in such a way that the contents cannot be altered without opening or changing the packaging.

### *Article 2*

1. The labelling and methods used must not:
  - (a) be such as could mislead the purchaser to a material degree, particularly:
    - (i) as to the characteristics of the foodstuff and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production,

<sup>(1)</sup> OJ No L 291, 29. 11. 1969, p. 9.

- (ii) by attributing to the foodstuff effects or properties which it does not possess,
  - (iii) by suggesting that the foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics;
- (b) subject to the provisions applicable to foodstuffs for particular nutritional uses, attribute to any foodstuff the property of preventing, treating or curing a human disease, or refer to such properties; Community provisions or, where there are none, national provisions may derogate from this rule in the case of natural mineral waters.

The procedure laid down in Article 16 shall apply to any such national provisions.

2. The Council, in accordance with the procedure laid down in Article 100 of the Treaty, shall draw up a non-exhaustive list of the claims within the meaning of paragraph 1, the use of which must at all events be prohibited or restricted.

3. The prohibitions or restrictions referred to in paragraphs 1 and 2 shall also apply to:

- (a) the presentation of foodstuffs, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed;
- (b) advertising.

#### Article 3

1. In accordance with Articles 4 to 14 and subject to the exceptions contained therein, indication of the following particulars alone shall be compulsory on the labelling of foodstuffs:

- (1) the name under which the product is sold,
- (2) the list of ingredients,
- (3) in the case of prepackaged foodstuffs, the net quantity,
- (4) the date of minimum durability,
- (5) any special storage conditions or conditions of use,

- (6) the name or business name and address of the manufacturer or packager, or of a seller established within the Community.

However, the Member States shall be authorized, in respect of butter produced in their territory, to require only an indication of the manufacturer, packager or seller.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph,

- (7) particulars of the place of origin or provenance in the cases where failure to give such particulars might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff,
- (8) instructions for use when it would be impossible to make appropriate use of the foodstuff in the absence of such instructions.

2. Notwithstanding the previous paragraph, Member States may retain national provisions which require indication of the factory or packaging centre, in respect of home production.

3. The provisions of this Article shall be without prejudice to more precise or more extensive provisions regarding weights and measures.

#### Article 4

1. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide for derogations, in exceptional cases, from the requirements laid down in Article 3 (1), points 2 and 4, provided that this does not result in the purchaser being inadequately informed.

2. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide that other particulars in addition to those listed in Article 3 must appear on the labelling.

Where there are no Community provisions, Member States may make provision for such particulars in accordance with the procedure laid down in Article 16.

#### Article 5

1. The name under which a foodstuff is sold shall be the name laid down by whatever laws, regulations or administrative provisions apply to the foodstuff in question or, in the absence of any such name, the

name customary in the Member State where the product is sold to the ultimate consumer, or a description of the foodstuff and, if necessary, of its use, that is sufficiently precise to inform the purchaser of its true nature and to enable it to be distinguished from products with which it could be confused.

2. No trade mark, brand name or fancy name may be substituted for the name under which the product is sold.

3. The name under which the product is sold shall include or be accompanied by particulars as to the physical condition of the foodstuff or the specific treatment which it has undergone (e.g. powdered, freeze-dried, deep-frozen, concentrated, smoked) in all cases where omission of such information could create confusion in the mind of the purchaser.

#### Article 6

1. Ingredients shall be listed in accordance with this Article and the Annexes.

2. Ingredients need not be listed in the case of:

- (a) — fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated,
  - carbonated water, the description of which indicates that it has been carbonated,
  - fermentation vinegars derived exclusively from a single basic product, provided that no other ingredient has been added;

- (b) — cheese,
  - butter,
  - fermented milk and cream,provided that no ingredient has been added other than lactic products, enzymes and micro-organism cultures essential to manufacture, or the salt needed for the manufacture of cheese other than fresh cheese and processed cheese;

(c) products consisting of a single ingredient.

3. 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 and, possibly, indicating the alcoholic strength.

4. (a) 'Ingredient' shall mean any substance, including additives, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in altered form.

(b) Where an ingredient of the foodstuff is itself the product of several ingredients, the latter shall be regarded as ingredients of the foodstuff in question.

(c) The following shall not be regarded as ingredients:

(i) the constituents of an ingredient which have been temporarily separated during the manufacturing process and later reintroduced but not in excess of their original proportions;

(ii) — additives:

— whose presence in a given foodstuff is solely due to the fact that they were contained in one or more ingredients of that foodstuff, provided that they serve no technological function in the finished product,

— which are used as processing aids;

— substances used in the quantities strictly necessary as solvents or media for additives or flavouring.

(d) In certain cases Decisions may be taken in accordance with the procedure laid down in Article 17 as to whether the conditions described in (c) (ii) are satisfied.

5. (a) The list of ingredients shall include all the ingredients of the foodstuff, in descending order of weight, as recorded at the time of their use in the manufacture of the foodstuff. It shall appear preceded by a suitable heading which includes the word 'ingredients'.

However:

— added water and volatile products shall be listed in order of their weight in the finished product; the amount of water added as an ingredient in a foodstuff shall be calculated by deducting from the total amount of the finished product the total amount of the other ingredients used. This amount need not be taken into consideration if it does not exceed 5 % by weight of the finished product;

- ingredients used in concentrated or dehydrated form and reconstituted at the time of manufacture may be listed in order of weight as recorded before their concentration or dehydration;
  - in the case of concentrated or dehydrated foods which are intended to be reconstituted by the addition of water, the ingredients may be listed in order of proportion in the reconstituted product provided that the list of ingredients is accompanied by an expression such as 'ingredients of the reconstituted product', or 'ingredients of the ready-to-use product';
  - in the case of mixtures of fruit or vegetables where no particular fruit or vegetable significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion';
  - in the case of mixtures of spices or herbs, where none significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion';
- (b) ingredients shall be designated by their specific name, where applicable, in accordance with the rules laid down in Article 5.

However:

- ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category;
- ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EEC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated; amendments to this Annex based on advances in scientific and technical knowledge shall be adopted in accordance with the procedure laid down in Article 17;

- flavouring matter shall be described in accordance with the national provisions applicable thereto, until the entry into force of the Community provisions;
- the Community provisions or, where there are none, the national provisions applicable to certain specified foodstuffs, many also provide for categories additional to those specified in Annex I. Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this indent.

6. Community provisions or, where there are none, national provisions may lay down that the name under which a specific foodstuff is sold is to be accompanied by mention of a particular ingredient or ingredients.

The procedure laid down in Article 16 shall apply to any such national provisions.

7. In the case referred to in paragraph 4 (b), a compound ingredient may be included in the list of ingredients, under its own designation in so far as this is laid down by law or established by custom, in terms of its overall weight, provided that it is immediately followed by a list of its ingredients.

Such a list, however, shall not be compulsory:

- where the compound ingredient constitutes less than 25 % of the finished product; however, this exemption shall not apply in the case of additives, subject to the provisions of paragraph 4 (c),
- where the compound ingredient is a foodstuff for which a list of ingredients is not required under Community rules.

8. Notwithstanding paragraph 5 (a), the water content need not be specified:

- (a) where the water is used during the manufacturing process solely for the reconstitution of an ingredient used in concentrated or dehydrated form;
- (b) in the case of a liquid medium which is not normally consumed.

#### Article 7

1. Where the labelling of a foodstuff places emphasis on the presence or low content of one or

more ingredients which are essential to the specific properties of the foodstuff, or where the description of the foodstuff has the same effect, the minimum or maximum percentage, as the case may be, used in the manufacture thereof shall be stated.

This information shall appear either immediately next to the name under which the foodstuff is sold or in the list of ingredients in connection with the ingredient in question.

In accordance with the procedure laid down in Article 17, it may be decided that, in the case of certain ingredients, the percentage referred to in this paragraph shall be expressed in absolute terms.

2. Paragraph 1 shall not apply:

(a) in the case of labelling which is intended to characterize a foodstuff in accordance with Article 5 (1) or which is required under Community provisions or, where there are none, under national provisions applicable to certain foodstuffs;

(b) in the case of ingredients used in small quantities only as flavourings.

3. Community provisions or, where there are none, national provisions may stipulate for certain foodstuffs, as well as in the case referred to in paragraph 2 (a), that quantities of certain ingredients must be indicated either in absolute terms or as percentages and that, where appropriate, mention should be made of any alteration in the quantities of these ingredients.

The procedure laid down in Article 16 shall apply to any such national provisions.

### Article 8

1. The net quantity of prepackaged foodstuffs shall be expressed:

- in units of volume in the case of liquids,
- in units of mass in the case of other products,

using the litre, centilitre, millilitre, kilogram or gram, as appropriate.

Community provisions or, where there are none, national provisions applicable to certain specified foodstuffs may derogate from this rule.

The procedure laid down in Article 16 shall apply to any such national provisions.

2. (a) Where the indication of a certain type of quantity (e.g. nominal quantity, minimum quantity, average quantity) is required by Community provisions or, where there are none, by national provisions, this quantity shall be regarded as the net quantity for the purposes of this Directive.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

(b) Community provisions or, where there are none, national provisions may, for certain specified foodstuffs classified by quantity in categories, require other indications of quantity.

The procedure laid down in Article 16 shall apply to any such national provisions.

(c) Where a prepackaged item consists of two or more individual prepackaged items containing the same quantity of the same product, the net quantity shall be indicated by mentioning the net quantity contained in each individual package and the total number of such packages. Indication of these particulars shall not, however, be compulsory where the total number of individual packages can be clearly seen and easily counted from the outside and where at least one indication of the net quantity contained in each individual package can be clearly seen from the outside.

(d) Where a prepackaged item consists of two or more individual packages which are not regarded as units of sale, the net quantity shall be given by indicating the total net quantity and the total number of individual packages. Community provisions or, where there are none, national provisions need not, in the case of certain foodstuffs, require indication of the total number of individual packages.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

3. In the case of foodstuffs normally sold by number, Member States need not require indication of the net quantity provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.

Without prejudice to the notification provided for in Article 22, Member States shall inform the

Commission and the other Member States of any measure taken pursuant to this paragraph.

4. Where a solid foodstuff is presented in a liquid medium, the drained net weight of the foodstuff shall also be indicated on the labelling.

For the purposes of this paragraph, 'liquid medium' shall mean the following products, possibly in mixtures, provided that the liquid is merely an adjunct to the essential elements of that preparation and is thus not a decisive factor for the purchase: water, salt water, brine, vinegar, aqueous solutions of sugars, and fruit or vegetable juices in the case of tinned fruit or vegetables.

Methods of checking the drained net weight shall be determined in accordance with the procedure laid down in Article 17.

5. It shall not be compulsory to indicate the net quantity in the case of foodstuffs:

- (a) which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser;
- (b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs.

Community provisions or, where there are none, national provisions applicable to specified foodstuffs may in exceptional cases lay down thresholds which are higher than 5 g or 5 ml provided that this does not result in the purchaser being inadequately informed.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

6. Until the end of the transitional period during which the use of the imperial units of measurement contained in Chapter D of the Annex to Directive 71/354/EEC of 18 October 1971 on the approximation of the laws of the Member States relating to units of measurement <sup>(1)</sup>, as last amended by Directive 76/770/EEC <sup>(2)</sup>, is authorized in the Community, Ireland and the United Kingdom may permit the quantity to be expressed only in imperial units of measurement calculated on the basis of the following conversion rates:

- 1 ml = 0.0352 fluid ounces,
- 1 l = 1.760 pints or 0.220 gallons,
- 1 g = 0.0353 ounces (avoirdupois),
- 1 kg = 2.205 pounds.

#### Article 9

1. The date of minimum durability of a foodstuff shall be the date until which the foodstuff retains its specific properties when properly stored.

It shall be indicated in accordance with the provisions of this Article.

2. The date shall be preceded by the words:

- 'Best before ...' when the date includes an indication of the day,
- 'Best before end ...' in other cases.

However, in the case of certain foodstuffs which, from the microbiological point of view, are highly perishable, Member States may require the words 'use before: ...' to be indicated. Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this subparagraph.

Before the expiry of a period of six years from the date of notification of this Directive, the Council, acting on a proposal from the Commission, shall decide on the common date-indication arrangements for highly perishable foodstuffs of the sort referred to in the second subparagraph.

3. The words referred to in paragraph 2 shall be accompanied by:

- either the date itself, or
- a reference to where the date is given on the labelling.

If need be, these particulars shall be followed by a description of the storage conditions which must be observed if the product is to keep for the specified period.

4. The date shall consist of the day, month and year in uncoded chronological form.

However, in the case of foodstuffs:

- which will not keep for more than three months, an indication of the day and the month will suffice,

<sup>(1)</sup> OJ No L 243, 29. 10. 1971, p. 29.

<sup>(2)</sup> OJ No L 262, 27. 9. 1976, p. 204.



- which will keep for more than three months but not more than 18 months, an indication of the month and year will suffice,
- which will keep for more than 18 months, an indication of the year will suffice.

The manner of indicating the date may be specified according to the procedure laid down in Article 17.

5. In their own territories the Member States may permit the minimum durability period to be expressed otherwise than in terms of the date of minimum durability.

Without prejudice to the notification provided for in Article 22, Member States shall notify the Commission and the other Member States of any measure taken under this paragraph.

6. Subject to the Community provisions governing the products below, an indication of the date of minimum durability shall not be required for:

- fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated,
- wines, liqueur wines, sparkling wines, aromatized wines, fruit wines and sparkling fruit wines,
- beverages containing 10 % or more by volume of alcohol,
- bakers' or pastry-cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture,
- vinegar,
- cooking salt,
- solid sugar,
- confectionery products consisting of flavoured and/or coloured sugars.

#### Article 10

1. The instructions for use of a foodstuff shall be indicated in such a way as to enable appropriate use to be made thereof.

2. Community provisions or, where there are none, national provisions may, in the case of certain foodstuffs, specify the way in which the instructions for use should be indicated.

The procedure laid down in Article 16 shall apply to such national provisions.

#### Article 11

1. (a) When the foodstuffs are prepackaged, the particulars provided for in Article 3 and Article 4 (2) shall appear on the prepackaging or on a label attached thereto.

(b) Notwithstanding point (a) and without prejudice to Community provisions on nominal amounts, Member States may authorize that all or some of the particulars provided for in Article 3 and Article 4 (2) be given only on the relevant trade documents when the foodstuffs are prepackaged and marketed prior to their sale to the ultimate consumer.

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

The Council, acting on a proposal from the Commission, shall lay down the provisions to apply subsequently in this connection not later than nine years after notification of this Directive.

2. These particulars shall be easy to understand and marked in a conspicuous place in such a way as to be easily visible, clearly legible and indelible.

They shall not in any way be hidden, obscured or interrupted by other written or pictorial matter.

3. (a) The particulars listed in Article 3 (1), points 1, 3 and 4, shall appear in the same field of vision.

This requirement may be extended to the particulars provided for in Article 4 (2).

(b) However, for glass bottles intended for re-use, upon which one of the particulars listed in point (a) is indelibly marked, this requirement shall not apply for a period of 10 years following notification of this Directive.

4. Member States may:

(a) permit that only the particulars listed in Article 3 (1), points 1, 3 and 4, be indicated on packaging or containers the largest surface of which has an area of less than 10 cm<sup>2</sup>,

(b) require the indication of only some of the particulars listed in Article 3 in respect of milk or milk products in bottles intended for re-use; in this case they may also provide for derogations from paragraph 3 (a).

Without prejudice to the notification provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

#### Article 12

Where foodstuffs are offered for sale to the ultimate consumer without prepackaging, or where foodstuffs are packaged on the sales premises at the consumer's request or prepackaged for direct sale, the Member States shall adopt detailed rules concerning the manner in which the particulars specified in Article 3 and Article 4 (2) are to be shown.

They may decide not to require the provision of all or some of these particulars, provided that the consumer still receives sufficient information.

#### Article 13

This Directive shall not affect the provisions of national laws which, in the absence of Community provisions, impose less stringent requirements for the labelling of foodstuffs presented in fancy packaging such as figurines or souvenirs.

#### Article 14

Member States shall refrain from laying down requirements more detailed than those already contained in Articles 3 to 11 concerning the manner in which the particulars provided for in Article 3 and Article 4 (2) are to be shown.

The Member States shall, however, ensure that the sale of foodstuffs within their own territories is prohibited if the particulars provided in Article 3 and Article 4 (2) do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.

#### Article 15

1. Member States may not forbid trade in foodstuffs which comply with the rules laid down in this Directive by the application of non-harmonized national provisions governing the labelling and presentation of certain foodstuffs or of foodstuffs in general.

2. Paragraph 1 shall not apply to non-harmonized national provisions justified on grounds of:

- protection of public health,
- prevention of fraud, unless such provisions are liable to impede the application of the definitions and rules laid down by this Directive,
- protection of industrial and commercial property rights, indications of provenance, registered designations of origin and prevention of unfair competition.

#### Article 16

Where reference is made to this Article, the following procedure shall apply:

- (1) When a Member State maintains the provisions of its national laws, it shall inform the Commission and the other Member States thereof within a period of two years after notification of this Directive;
- (2) Should a Member State deem it necessary to adopt new legislation, it shall notify the Commission and the other Member States of the measures envisaged and give the reasons justifying them. The Commission shall consult the Member States within the Standing Committee on Foodstuffs if it considers such consultation to be useful or if a Member State so requests.

Member States may take such envisaged measures only three months after such notification and provided that the Commission's opinion is not negative.

In the latter event, and before the expiry of the abovementioned period, the Commission shall initiate the procedure provided for in Article 17 in order to determine whether the envisaged measures may be implemented subject, if necessary, to the appropriate modifications.

#### Article 17

1. Where the procedure laid down in this Article is invoked, the matter shall be referred to the Standing Committee on Foodstuffs (hereinafter called 'the Committee') by its chairman, either on this own initiative or at the request of a representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on that draft within a time limit set by the chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 41 votes, the votes of

the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) Where the measures envisaged are in accordance with the opinion of the Committee, the Commission shall adopt them.

(b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.

(c) If the Council has not acted within three months of the proposal being submitted to it, the proposed measures shall be adopted by the Commission.

#### Article 18

Article 17 shall apply for 18 months from the date on which the matter was first referred to the Committee pursuant to Article 17.

#### Article 19

If temporary measures prove necessary to facilitate the application of this Directive, they shall be adopted in accordance with the procedure provided for in Article 17.

#### Article 20

This Directive shall not affect Community provisions relating to the labelling and presentation of certain foodstuffs already adopted at the time of its notification.

Any amendments necessary to harmonize such provisions with the rules laid down in this Directive shall be decided in accordance with the procedure applicable to each of the provisions in question.

#### Article 21

This Directive shall not apply to products for export outside the Community.

#### Article 22

1. Member States shall make such amendments to their laws as may be necessary to comply with the provisions of this Directive and shall forthwith inform the Commission thereof; the laws thus amended shall be applied in such a way as to:

- permit trade in those products which comply with the provisions of this Directive no later than two years after its notification,
- prohibit trade in those products which do not comply with the provisions of this Directive four years after its notification.

2. However, Member States may:

- (a) in the case of certain foodstuffs, reduce the period specified in the second indent of paragraph 1;
- (b) in the case of certain foodstuffs which keep for a long time, extend the period specified in the second indent of paragraph 1;
- (c) without prejudice to the first indent of Article 23 (1) (b), in the case of foodstuffs which will keep for more than 12 months, extend to six years the period laid down in the second indent of paragraph 1 above as regards the obligation to indicate the date of minimum durability.

3. In the case referred to:

- (a) in paragraph 2 (a), the procedure laid down in Article 16 (2) shall apply to any national provision;
- (b) in paragraph 2 (b) and (c), Member States shall inform the Commission and the other Member States of any measure taken pursuant to the said points.

4. Member States shall also ensure that the Commission receives the text of any essential provision of national law which they adopt in the field governed by this Directive.

#### Article 23

1. By way of derogation from the second indent of Article 22 (1), Member States may make implementation of the provisions relating to the following matters optional:

- (a) the designation, provided for in the second indent of Article 6 (5) (b), of the specific name or EEC number of the ingredients belonging to one of the categories listed in Annex II;

(b) the indication provided for in Article 9, of the date of minimum durability in the case of:

- foodstuffs whose minimum durability exceeds 18 months,
- deep-frozen foodstuffs,
- ice-creams,
- chewing gums and similar chewing products,
- fermented cheese intended to ripen completely or partially in prepackaging;

(c) the information provided for in Annex I to supplement the designation 'oil' or 'fat'.

2. Without prejudice to the information provided for in Article 22, Member States shall inform the Commission and the other Member States of any measure taken pursuant to paragraph 1.

3. After a period of five years following notification of this Directive, the Council shall, in accordance with the procedure laid down in Article 100 of the Treaty, decide upon the common rules to apply in the cases referred to in paragraph 1.

#### *Article 24*

This Directive shall also apply to the French overseas departments.

#### *Article 25*

This Directive shall not apply to foodstuffs marketed in Greenland, intended for local consumption.

#### *Article 26*

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1978.

*For the Council*

*The President*

J. ERTL

## ANNEX I

## Categories of ingredients which may be designated by the name of the category rather than the specific name

<i>Definition</i>	<i>Designation</i>
Refined oils other than olive oil.	<p>'Oil', together with</p> <ul style="list-style-type: none"><li>— either the adjective 'vegetable' or 'animal', as appropriate, or</li><li>— an indication of their specific vegetable or animal origin.</li></ul> <p>The adjective 'hydrogenated' must accompany the indication of a hydrogenated oil where the vegetable origin or the specific vegetable or animal origin is mentioned.</p> <p>However, in either case, Member States may lay down requirements which are more stringent in the case of foodstuffs consisting essentially of oils and fats, emulsified sauces or preparations where the oil serves as a liquid medium; in that case the procedure laid down in Article 16 shall apply.</p>
Refined fats.	<p>'Fat', together with</p> <ul style="list-style-type: none"><li>— either the adjective 'vegetable' or 'animal', as appropriate, or</li><li>— an indication of their specific vegetable or animal origin.</li></ul> <p>However, in either case, Member States may lay down requirements which are more stringent in the case of foodstuffs consisting essentially of oils and fats or emulsified sauces; in that case the procedure laid down in Article 16 shall apply.</p>
Mixtures of flour obtained from two or more cereal species.	<p>'Flour', followed by a list of the cereals from which it has been obtained in descending order by weight.</p>
Starches, and starches modified by physical or enzymatic means.	<p>Starch.</p>
All species of fish where the fish constitutes an ingredient of another foodstuff and provided that the name and presentation of such foodstuff does not refer to a specific species of fish.	<p>Fish.</p>
All types of poultrymeat where such meat constitutes an ingredient of another foodstuff and provided that the name and presentation of such a foodstuff does not refer to a specific type of poultrymeat.	<p>Poultrymeat.</p>
All types of cheese where the cheese or mixture of cheeses constitutes an ingredient of another foodstuff and provided that the name and presentation of such foodstuff does not refer to a specific type of cheese.	<p>Cheese.</p>

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<i>Definition</i>	<i>Designation</i>
All spices and spice extracts not exceeding 2 % by weight of the foodstuff.	Spice(s) or mixed spices.
All herbs or parts of herbs not exceeding 2 % by weight of the foodstuff.	Herb(s) or mixed herbs.
All types of gum preparations used in the manufacture of gum base for chewing gum.	Gum base.
All types of crumbed baked cereal products.	Crumbs or rusks as appropriate.
All types of sucrose.	Sugar.
Anhydrous dextrose and dextrose monohydrate.	Dextrose.
All types of caseinates.	Caseinates.
Press, expeller or refined cocoa butter.	Cocoa butter.
All crystallized fruit not exceeding 10 % of the weight of the foodstuff.	Crystallized fruit.

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**ANNEX II**

**Categories of ingredients which must be designated by the name of the category to which they belong, followed by their specific name or EEC number**

Colour  
Preservative  
Antioxidant  
Emulsifier  
Thickener  
Gelling agent  
Stabilizer  
Flavour enhancer  
Acid  
Acidity regulator  
Anticaking agent  
Modified starches <sup>(1)</sup>  
Artificial sweetener  
Raising agent  
Antifoaming agent  
Glazing agent  
Emulsifying salts <sup>(2)</sup>  
Flour improvers

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<sup>(1)</sup> Indication of specific name or EEC number is not required.

<sup>(2)</sup> Only for processed cheeses and processed cheese products.

## COUNCIL DIRECTIVE

of 19 December 1978

on the approximation of the laws of the Member States relating to the determination  
of the noise emission of construction plant and equipment

(79/113/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European  
Parliament <sup>(1)</sup>,

Having regard to the opinion of the Economic and  
Social Committee <sup>(2)</sup>,

Whereas in the Member States the permissible noise  
emission of construction plant and equipment and  
the method of determining it is subject to mandatory  
provisions which differ from one Member State to  
another and consequently hinder trade in such  
construction plant and equipment; whereas it is  
therefore necessary to approximate these provisions;

Whereas it is necessary to approximate the  
requirements for the determination of the noise  
emission which construction plant and equipment  
must satisfy in order to be freely imported and  
marketed,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive shall apply to the construction  
plant and equipment defined in paragraph 2, for  
which detailed requirements are laid down in  
separate Directives.

2. For the purposes of this Directive 'construction  
plant and equipment' means machinery, appliances,  
plant and installations or components thereof which

are used, according to their type, to perform work on  
civil engineering and building sites but which are not  
primarily intended for the transport of goods or  
persons and in respect of which the noise emission  
should be determined.

3. Agricultural and forestry tractors and lifting  
appliances are excluded from the scope of this  
Directive.

*Article 2*

Where a separate Directive provides for the  
determination of the noise emission of the plant and  
equipment referred to in Article 1, this emission shall  
be determined in accordance with the requirements  
annexed hereto.

*Article 3*

Any amendments necessary to adapt the requirements  
annexed hereto to technical progress shall be adopted  
in accordance with the procedure laid down in  
Article 5.

*Article 4*

1. A Committee on the Adaptation to Technical  
Progress of the Directives on the Removal of  
Technical Barriers to Trade in Construction Plant  
and Equipment, hereinafter called 'the Committee', is  
hereby set up; it shall consist of representatives of the  
Member States, with a representative of the  
Commission as chairman.

2. The Committee shall adopt its own Rules of  
Procedure.

*Article 5*

1. Where the procedure laid down in this Article is  
to be followed, matters shall be referred to the  
Committee by the chairman, either on his own

<sup>(1)</sup> OJ No C 76, 7. 4. 1975, p. 37.

<sup>(2)</sup> OJ No C 263, 17. 11. 1975, p. 42.



initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit set by the chairman, having regard to the urgency of the matter. Opinions shall be adopted by a majority of 41 votes, the votes of Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged where they are in accordance with the opinion of the Committee.

(b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is adopted, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

#### *Article 6*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall ensure that the texts of the provisions of national law which they adopt in the field covered by this Directive are communicated to the Commission.

#### *Article 7*

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

*For the Council*

*The President*

G. BAUM

## ANNEX

## METHOD OF DETERMINING AIRBORNE NOISE EMITTED BY MACHINES USED OUTDOORS

## 1. OBJECT

The purpose of this method is to determine the noise emitted by all categories of machines, parts of machines or installations used outdoors. For the purposes of this method, machines, parts of machines and installations are called sound sources.

This method defines the various acoustic criteria which may be adopted to characterize a sound source, and the means of determining these criteria.

The values obtained by this method constitute the basic data for checking that the noise emission of machines complies with requirements, and for the organization of construction sites with regard to protection against noise. Unless otherwise indicated, these values are inclusive of tolerances.

This method is applicable unless separate Directives lay down different or supplementary provisions taking into account the special characteristics of certain types of machine.

## 2. SCOPE

## 2.1. Type of noise

This method is applicable to any type of noise emitted by a sound source normally used in the open air.

## 2.2. Size of sound source

Unless separate Directives provide otherwise, this method is applicable to sound sources of all sizes.

## 3. DEFINITIONS

3.1. Sound pressure level  $L_{pA}$ 

The sound pressure level  $L_{pA}$  is obtained by applying the weighting A to the sound pressure level  $L_p$ .

The sound pressure level  $L_p$ , expressed in dB, of a noise is defined by:

$$L_p = 20 \log_{10} \frac{p}{p_0}$$

where:

$p$  is the effective sound pressure value measured at a particular point, expressed in Pa;

$p_0$  is the effective reference sound pressure, equal to 20  $\mu$ Pa.

The value  $L_{pA}$  of the A-weighted sound pressure level, expressed in dB, is obtained by applying the weighting A to the measuring system.

## 3.2. Measuring surface

The measuring surface of area  $S$  is a hypothetical surface surrounding the sound source and on which the measuring points are arranged (see 6.4).

3.3. Surface sound pressure level  $L_{pAm}$ 

The surface sound pressure level  $L_{pAm}$  is the root mean square of the sound pressures recorded on the measuring surface, calculated in accordance with the method set out in 8.4.

### 3.4. Sound power level $L_{WA}$

The sound power level  $L_{WA}$  is obtained by applying the weighting A to the sound power level  $L_W$ .

The sound power level  $L_W$ , expressed in dB, of a sound source is defined by:

$$L_W = 10 \log_{10} \frac{W}{W_0}$$

where:

$W$  is the total sound power generated by the sound source, expressed in watts;

$W_0$  is the reference sound power, equal to  $10^{-12}$  W.

The value  $L_{WA}$  of the A-weighted sound power level, expressed in dB, is obtained by applying the weighting A to the measuring system.

### 3.5. Limit value of the sound power level $L_{WA1}$

The limit value of the sound power level  $L_{WA}$ , expressed in A-weighted dB, is that prescribed by the separate Directives and shall be termed  $L_{WA1}$ .

### 3.6. Directivity index (DI)

The directivity index (DI), expressed in dB, to be adopted in applying this method is defined by the formula:

$$DI = L_{pAmax} - L_{pAm} + 3$$

where:

—  $L_{pAmax}$  is the highest of the sound pressure levels recorded at the measuring points (see 6.4.2), calculated in accordance with 8.1.1 and corrected in accordance with the general principles laid down in 8.6.1, 8.6.3 and 8.6.4,

—  $L_{pAm}$  is the surface sound pressure level determined in accordance with 8.4,

— 3 is a conventional additive term.

In determining the values  $L_{pAmax}$  and  $L_{pAm}$  only the measuring points prescribed need be taken into account.

### 3.7. Extraneous noise

Extraneous noise means the noise resulting from background noise and parasitic noise.

#### 3.7.1. Background noise

Background noise means any noise recorded at the measuring points which is not generated by the sound source.

#### 3.7.2. Parasitic noise

Parasitic noise means any noise at the measuring points which is generated by the sound source but not directly radiated by it.

## 4. CRITERIA TO BE USED FOR EXPRESSING RESULTS

### 4.1. Acoustic criteria for the environment

The acoustic criterion for the environment of a sound source shall be expressed:

— either by the sound power level of the sound source  $L_{WA}$ ,

— or by the sound power level of the sound source  $L_{WA}$  supplemented by the directivity index (DI). However, when the calculated sound power level  $L_{WA}$  is lower than the limit value of the sound power level  $L_{WA1}$  by a value specified in the separate Directive, the directivity index (DI) is given only for information.

#### 4.2. Acoustic criterion at the operator's position

In principle the acoustic criterion at the operator's position shall be expressed as the sound pressure level  $L_{pA}$ .

### 5. MEASURING INSTRUMENTS

#### 5.1. General

The instruments shall be designed to measure the A-weighted level of the root mean square of the sound pressure. The level of the root mean square value in time for a measurement point is obtained either by direct reading of the instrument, or by calculation in accordance with section 11.

#### 5.2. Measuring instruments

The following instruments may be used to satisfy the preceding requirement:

- (a) a sound level meter meeting the requirements of IEC publication 179, 1973, second edition. The meter shall be set at 'slow' response;
- (b) an integrator effecting analog or digital integration of the squared signal over a given time interval.

#### *Note*

If, for any measurement, instruments other than a precision sound level meter or combinations of instruments, such as integrators are used, all the specifications of such instruments shall comply with the relevant requirements of IEC publication 179, 1973, second edition.

#### 5.3. Microphone with cable

Use shall be made of a microphone with cable complying with IEC publication 179, 1973, second edition, and calibrated for free-field measurement.

#### 5.4. Weighting network

Use shall be made of an A-weighting network meeting the requirements of IEC publication 179, 1973, second edition.

#### 5.5. Inspection of the measuring apparatus

5.5.1. Before the tests, the acoustic properties of the entire apparatus (measuring instruments including microphone and cable) shall be checked by means of a calibrated sound source with an accuracy of at least 0.5 dB (e.g. a pistonphone); the apparatus shall be checked again immediately after each series of measurements.

5.5.2. These on-the-spot checks shall be supplemented by more thorough calibrations to be carried out at least once a year in a specially equipped laboratory.

### 6. MEASURING CONDITIONS

All details concerning the installation, operation and use of the sound sources shall be specified in the Annexes to the separate Directives.

The general requirements are given in 6.1 to 6.4.

#### 6.1. Purpose of the measurement

All apparatus, such as auxiliary equipment, power generators etc., which forms an integral part of the sound source to be tested shall be accurately defined.

In the case of machines operating with interchangeable devices, such as various items of special-duty equipment, the measurements shall be made at least on the machine fitted with its main device. The results of a measurement shall be valid only for the combination tested.

If necessary, the separate Directives also specify in what way account must be taken, when measurements are being carried out, of the existence of any components which are not, strictly speaking, constituent parts of the machine (separate tools, etc.) but which are essential to its operation.

## 6.2. Operation of the sound source during measurement

With a view to creating reproducible conditions and enabling the characteristic emission values of the sound source to be calculated, the separate Directives shall contain a precise definition of the operating conditions to be fulfilled during measurement.

In principle, each measurement shall comprise:

6.2.1. *A test of the sound source free of load (idling) at the nominal motor speed, but without operating the working equipment or travelling mechanism.*

6.2.2. *Tests carried out under load*

In this case, the operating conditions prescribed shall correspond either to normal working conditions or to conventional working conditions, producing, in principle, effects and stress similar to those undergone under actual working conditions. During measurement, the equipment shall operate steadily or perform a given regular sequence of operations. The operating conditions of each sound source are specified in the Annexes to the appropriate separate Directives.

## 6.3. Measuring site

The sound source shall be installed in free-field conditions and, unless otherwise prescribed, on a reflecting plane corresponding to its actual mode of operation and on a site where extraneous noises are sufficiently low (see 8.6).

Where a non-reflecting surface (e.g. grassy ground) shall be used to perform a test prescribed by a separate Directive the acoustic properties of the surface will be specified in the Directive concerned.

The environment of the measuring site shall be free from reflecting objects which might influence measurement results.

If a reference sound source is used, it shall have the minimum characteristics specified in ISO Standard 3741, Annex B, 1975.07.15.

## 6.4. Measuring surface, measuring distance, location and number of measuring points

6.4.1. *Measuring surface, measuring distance*

The measuring surface is a hypothetical surface enveloping the sound source; it is delimited by the test area on which the machine stands. It may also be delimited by several planes (Figure 1). It shall be of a simple geometrical shape, preferably a hemisphere or a rectangular parallelepiped. The sound source shall be placed at the centre of the test area (Figures 2 and 3).

In principle, large measuring distances shall be chosen.

In the case of the hemisphere, this is achieved when the distance between the hemisphere and the outer surface of the machine is not less than twice the largest dimension (length, width, height) of the sound source.

If no dimension of the sound source to be tested exceeds 4 m, the measuring surface shall preferably be a hemisphere with a radius of 10 m. If none of the dimensions exceeds 1.5 m, the measuring surface shall be a hemisphere with a radius of 4 m.

In the case of very large sound sources, practical difficulties arise in carrying out the tests. In this case, use of a parallelepiped as the measuring surface presents certain advantages.

Where the Annexes to the separate Directives lay down special measuring surfaces, these alone shall be taken into consideration.

## Notes

- (a) Projecting parts of the sound source which do not make an essential contribution to acoustic radiation shall not be taken into consideration in determining the dimensions of the sound source.

- (b) In the case of sound sources of which the greatest of the three dimensions (length, width, height) exceeds half the measuring distance, there will be increased uncertainty regarding measuring results. Such uncertainty can be reduced by increasing the number of measuring points. If the distance between two neighbouring measuring points is less than the measuring distance, the precision of the measurement will be comparable to that obtained with the hemisphere as defined above.

#### 6.4.2. Location and number of measuring points

##### 6.4.2.1. General

If, owing to its geometric shape or its method of operation (e.g. movement), the sound source shows marked directional properties, the measuring points shall be distributed on the basis of a system of coordinates to be established accordingly; the origin of the system of coordinates shall, where possible, coincide with the projection on the test area of the geometric centre of the sound source.

##### 6.4.2.2. Position of the measuring points on a hemisphere of radius $r$

In the case of a hemisphere there shall, in principle, be 12 measuring points with the following coordinates (see Figure 2):

$$x = (x/r) r$$

$$y = (y/r) r$$

$$z = (z/r) r.$$

The values  $x/r$ ,  $y/r$ ,  $z/r$  and  $z$  are given in Table I below:

TABLE I

	$x/r$	$y/r$	$z/r$	$z$
1	1	0	—	1.5 m
2	0.7	0.7	—	1.5 m
3	0	1	—	1.5 m
4	-0.7	0.7	—	1.5 m
5	-1	0	—	1.5 m
6	-0.7	-0.7	—	1.5 m
7	0	-1	—	1.5 m
8	0.7	-0.7	—	1.5 m
9	0.65	0.27	0.71	—
10	-0.27	0.65	0.71	—
11	-0.65	-0.27	0.71	—
12	0.27	-0.65	0.71	—

##### 6.4.2.3. Position of measuring points on a parallelepiped

If the measuring surface is situated on a parallelepiped, the measuring points are, for example, as shown in Fig. 3. The number of measuring points and their arrangement depend on the size of the source. However, there shall be at least one measuring point at the centre of each face (as a general rule four lateral faces and one upper face) and at the four corners of the upper face of the parallelepiped. Note (b) in 6.4.1 shall also be taken into consideration.

#### Note concerning 6.4.2.2 and 6.4.2.3

The separate Directives may prescribe a different arrangement for the measuring points and a different number thereof.

#### 6.5. Measurements at the operators's position

If operation of the machine requires the presence of an operator (for example the driver), additional measurements should be made at the operator's position.

Detailed specifications in this connection will be given elsewhere.

### 7. MEASUREMENTS

#### 7.1. Measurement of the acoustic properties of the measuring site

The environmental conditions at the measuring site shall be checked before measurements are carried out. The following factors shall be checked:

- (a) extraneous noise;
- (b) wind interference;
- (c) operating conditions such as vibrations, temperature, humidity, barometric pressure;
- (d) acoustic properties of the test area;
- (e) acoustic reflections from obstacles in the measuring site which might affect the results of the measurements.

##### 7.1.1. *Extraneous noise*

The Annexes to the separate Directives will specify which extraneous noise shall be taken into consideration.

##### (a) Measurement of background noise

Background noise shall be recorded at the measuring points (see 6.4.2) with the sound surface switched off (no sound emission) (see method given in 7.2).

##### (b) Measurement of parasitic noise

Parasitic noise shall be recorded at the measuring points (see 6.4.2), if necessary once the sound source to be examined has been isolated by means of screens (see method given in 7.2).

##### *Note*

For such screens a surface mass of 25 kg/m<sup>2</sup> is generally adequate. It is preferable for the side facing the sound source to be tested to be sound-absorbing.

##### 7.1.2. *Wind speed and direction*

The wind speed and direction are established at a point above the test area. Account shall be taken of the provisions laid down in 8.6.4.

##### 7.1.3. *Measurement of temperature, humidity, barometric pressure and other disturbances*

Only disturbances likely to have a bearing on the acoustic measurements need be measured (see 8.6.3).

##### 7.1.4. *Acoustic quality of the test area*

The acoustic quality of the test area may be characterized by the environmental constant C as defined in 8.6.2.

The procedure to be followed for determining the value of C defined in 8.6.2 will be given elsewhere. This constant C also allows an assessment to be made as to whether partially reflecting ground can be validly used as a test area.

**7.1.5. Presence of obstacles**

A visual check is in general adequate to ensure that the provisions of the third paragraph of 6.3 have been complied with. The zone to be checked is laid down in the separate Directives.

**7.2. Measurement of the sound pressure level  $L_{pA}$** 

To measure the sound pressure level  $L_{pA}$ , use shall be made of an instrument as defined in 5.2. The sound pressure level  $L_{pA}$  at a given measuring point is the root mean square value in time of the sound pressures. If a sound level meter is used, a number of readings shall be taken at this point and their mean value in time calculated in accordance with section 11.

In principle, the measuring time at each measuring point shall be 15 sec. In the case of work cycles with periodic level variations, the measuring time shall, in principle, cover at least three complete work cycles. If an integrator is used, the integrating time shall be equal to the measuring time.

**7.3. Determination of the nature of the noise generated by the sound source**

For reasons of environmental protection the nature of the noise emitted should be identified so that an assessment may be made of the annoyance caused. Consequently it is appropriate to define a method of characterizing noise of an impulsive character and noise with discrete tones.

**7.3.1. Detection of noise of an impulsive character**

Comparison of the readings on a precision sound level meter set at 'slow' response with those of a precision impulse sound level meter set at 'impulsive' response (IEC Publication 179 A/1973) allows an assessment to be made of whether or not a noise is of an impulsive character. According to this measurement procedure, the difference between the root mean square values in time of the sound pressure levels measured with the sound level meter at slow and impulsive response respectively is taken as an indication of the impulsive character of a noise. The sound pressure level obtained with the 'impulsive' response is referred to as the 'impulsive sound pressure level'.

This shall be determined at one of the measuring points laid down.

A noise is considered to be impulsive in character if the difference between the two abovementioned levels is greater than or equal to 4 dB.

**7.3.2. Detection of a noise with discrete tones**

(7.3.2 is being revised to take account of technical progress; the final text will be introduced by the 'Committee on Adaptation to Technical Progress' procedure.)

**8. USE OF RESULTS****8.1. Calculation of root mean square values****8.1.1. Root mean square value at a measuring point**

The values obtained from the measurements referred to in 7.2 are root mean square values in time.

**8.1.2. Root mean square value on the measuring surface**

The level corresponding to the root mean square value in space of the sound pressure levels for all the measuring points shall be calculated on the basis of the values established in accordance with the method described in 8.1.1.

**8.2. Calculation of average extraneous noise level**

The average extraneous noise level over the measuring surface is obtained by applying the method described in 8.1.2 to the extraneous noise levels established at the different measuring points.



The extraneous noise level at a measuring point is equal to the combined mean square values of the sound pressures due to background noise and parasitic noise respectively at that point.

### 8.3. Calculation of the area $S$ of the measuring surface

In the case of a hemisphere, the area  $S$ , expressed in  $\text{m}^2$ , of the measuring surface is determined as follows:

$$S = 2 \pi r^2$$

where  $r$  = the radius of the measuring hemisphere in m.

In the case of a parallelepiped, the area  $S$ , expressed in  $\text{m}^2$ , of the measuring surface is determined as follows:

$$S = 4 (ab + bc + ca)$$

where:

$2a = 2d + l$  length of the measuring surface in m;

$2b = 2d + e$  width of the measuring surface in m;

$c = d + h$  height of the measuring surface in m;

$d$  distance separating the measuring surface from the sound source in m;

$l$  length of the sound source in m;

$e$  width of the sound source in m;

$h$  height of the sound source in m.

The area of the measuring surface may be calculated approximately. It should be noted that an error of  $\pm 20\%$  in this area gives a deviation of  $\pm 1$  dB in the value of the term

$$10 \log_{10} \frac{S}{S_0} \text{ (surface level)}$$

### 8.4. Calculation of the surface sound pressure level $L_{pAm}$

The surface sound pressure level is the level calculated in accordance with the method described in 8.1.2 and then corrected as described in 8.6.1, 8.6.3 and 8.6.4.

### 8.5. Calculation of the sound power level $L_{WA}$

The sound power level  $L_{WA}$  of the sound source is calculated by means of the following equation:

$$L_{WA} = L_{pAm} + 10 \log_{10} \frac{S}{S_0} + K_2$$

where:

$L_{WA}$  = the sound power level of the source tested, expressed in dB (see 3.4);

$L_{pAm}$  = the surface sound pressure level, expressed in dB, as defined in 3.3;

$S$  = the area of the measuring surface in  $\text{m}^2$ , calculated in accordance with the method described in 8.3;

$S_0$  = reference area of  $1 \text{ m}^2$ ;

$K_2$  = correction term for the test area, expressed in dB. This equals zero unless, in the light of the provisions of 8.6.2 together with those of the separate Directives, it should equal C.

*Note* (see 6.4.1)

Where  $r = 4 \text{ m}$ ,  $10 \log_{10} \frac{S}{S_0} = 20 \text{ dB}$ .

Where  $r = 10 \text{ m}$ ,  $10 \log_{10} \frac{S}{S_0} = 28 \text{ dB}$ .

## 8.6. Corrections to be made to measurements

### 8.6.1. Extraneous noise

The average sound pressure level over the measuring surface, calculated in accordance with the method described in 8.1, shall be corrected, if necessary, to take account of the extraneous noise determined in accordance with the method described in 8.2. The correction  $K_1$ , in dB, which shall be subtracted from the average sound pressure level over the measuring surface is given in Table II.

TABLE II

Difference (in dB) between the sound pressure level calculated when the sound source is operating and the sound pressure level due to extraneous noise alone	Correction $K_1$ in dB
less than 6	no valid measurement
6	1.0
7	1.0
8	1.0
9	0.5
10	0.5
more than 10	no correction

### 8.6.2. Acoustic properties of test area

The constant  $C$ , which indicates the acoustic properties of the test area, is determined by the following equation:

$$C = L_{WA_r} - L_{WA_s}$$

where:

$L_{WA_r}$  = nominal sound power level of the reference source, expressed in dB;

$L_{WA_s}$  = sound power level of the reference source, calculated on the basis of measurements made on the test area, account being taken of 7.1 ((a), (b) and (c)).

If the ground surface of the test area is rigid and made of concrete or non-porous asphalt and if there are no reflecting objects on the measuring site, there is no need to determine any environmental constant  $C$ .

In the case of a partially reflecting ground surface, the value of  $C$  must be between limit values laid down in the separate Directives. The effective value of  $C$ , which indicates the acoustic properties of the measuring site used, is determined by the above equation.

This value is used as  $K_2$  for fixing the sound power level of the source, unless otherwise specified in the separate Directives.

Further corrections relating to the operation of the sound source (e.g. the altitude of the measuring site) should also be made.

### 8.6.3. Disturbances: temperature, humidity, altitude of site etc.

#### — Measuring apparatus:

The manufacturer's instructions should be followed in order to take account of any effects of all the disturbances mentioned by him, such as temperature, barometric pressure, humidity.

#### — Sound source:

The separate Directives will indicate any disturbances likely to affect measurements and specify how they are to be taken into account.

**8.6.4. Wind interference**

The maximum permissible wind speed is 8 m/sec.

Above the wind speed indicated by the manufacturer, microphones shall be equipped with a wind-screen. Any corrections to be made to the calculations referred to in 8.4 are indicated by the wind-screen manufacturer.

**9. DATA TO BE RECORDED**

In principle, the following information shall be compiled and recorded in a report concerning all measurements made in accordance with the specifications for this method of measurement.

**9.1. Sound source under test**

- (a) description of the sound source under test (including dimensions);
- (b) operating conditions of the sound source during the tests;
- (c) conditions for installation on the test area;
- (d) location of sound source on measuring site;
- (e) if the machine tested has multiple noise sources, description of sources in operation during measurement.

**9.2. Acoustic environment**

- (a) description of the measuring site, including physical characteristics of the test area; diagram showing the location of the sound source and any reflecting objects on the measuring site;
- (b) meteorological conditions: weather (e.g. sunshine, cloud, rain, fog), air temperature, barometric pressure, wind speed and direction, humidity;
- (c) correction constant representing the acoustic properties of the test area.

**9.3. Instrumentation**

- (a) equipment used for the measurements, including the name of the equipment, type, serial number and name of manufacturer;
- (b) method used to calibrate the measuring equipment in accordance with 5.5.1.  
Name of laboratory which carried out the calibration required in 5.5.2. and date of last calibration.

**9.4. Acoustic data**

- (a) shape and dimensions of measuring surface, location of microphones. Numbers of measuring points and wind direction shall be indicated in the diagram required under 9.2 (a);
- (b) area  $S$  of measuring surface in  $m^2$  (see 8.3) and value of  $10 \log_{10} \frac{S}{S_0}$  (see 8.5);
- (c) sound pressure levels recorded at measuring points (see 8.1.1);
- (d) average sound pressure level over measuring surface (see 8.1.2);
- (e) any dB corrections (see 8.6.1, 8.6.3 and 8.6.4);
- (f) surface sound pressure level  $L_{pAm}$  (see 8.4);
- (g) environmental constant  $C$  (see 8.6.2);
- (h) sound power level (see 8.5);
- (i) directivity index and number of the measuring point at which  $L_{pAmax}$  was recorded (see 3.6);
- (j) nature of noise (see 7.3);
- (k) where applicable, sound pressure levels at operator's position (see 6.5);
- (l) date and time of measurements.

# 10. DATA TO BE INCLUDED IN THE REPORT LAID DOWN IN SECTION 9

Only those data recorded in accordance with section 9 and required for the purposes of the measurements shall be reported. The report shall state clearly that the sound power levels were obtained in full compliance with this measuring method. It shall specify that these sound power levels are given in A-weighted dB, reference 1 pW.

# 11. METHOD OF CALCULATING THE AVERAGE LEVEL CORRESPONDING TO THE ROOT MEAN SQUARE VALUE OF THE VARIOUS SOUND PRESSURE LEVELS

The root mean square value of the various sound pressure levels resulting either from a series of measurements made at a single point (root mean square in time) or from a series of measurements made at different points on the measuring surface (root mean square in space) can be determined by the following formula:

$$L_{pAm} = L_{pAo} + 10 \log_{10} \frac{1}{n} \sum_{i=1}^{i=n} g_i = L_{pAo} + 10 \log_{10} g_m$$

where:

$L_{pAi}$  equals the sound pressure level of the  $i$ -th measurement;

$L_{pAo}$  is an auxiliary sound pressure level to simplify the calculation (for example, the smallest of the  $L_{pAi}$  values);

$g_i$  is the auxiliary variable for the  $i$ -th measurement:  $g_i = 10^{0.1} (L_{pAi} - L_{pAo})$ ;

$g_m$  is the mean value of the  $g_i$  variables:  $\frac{1}{n} \sum_{i=1}^{i=n} g_i$

The quantity  $\Delta L$  is defined by:

$$\Delta L = L_{pAi} - L_{pAo}$$

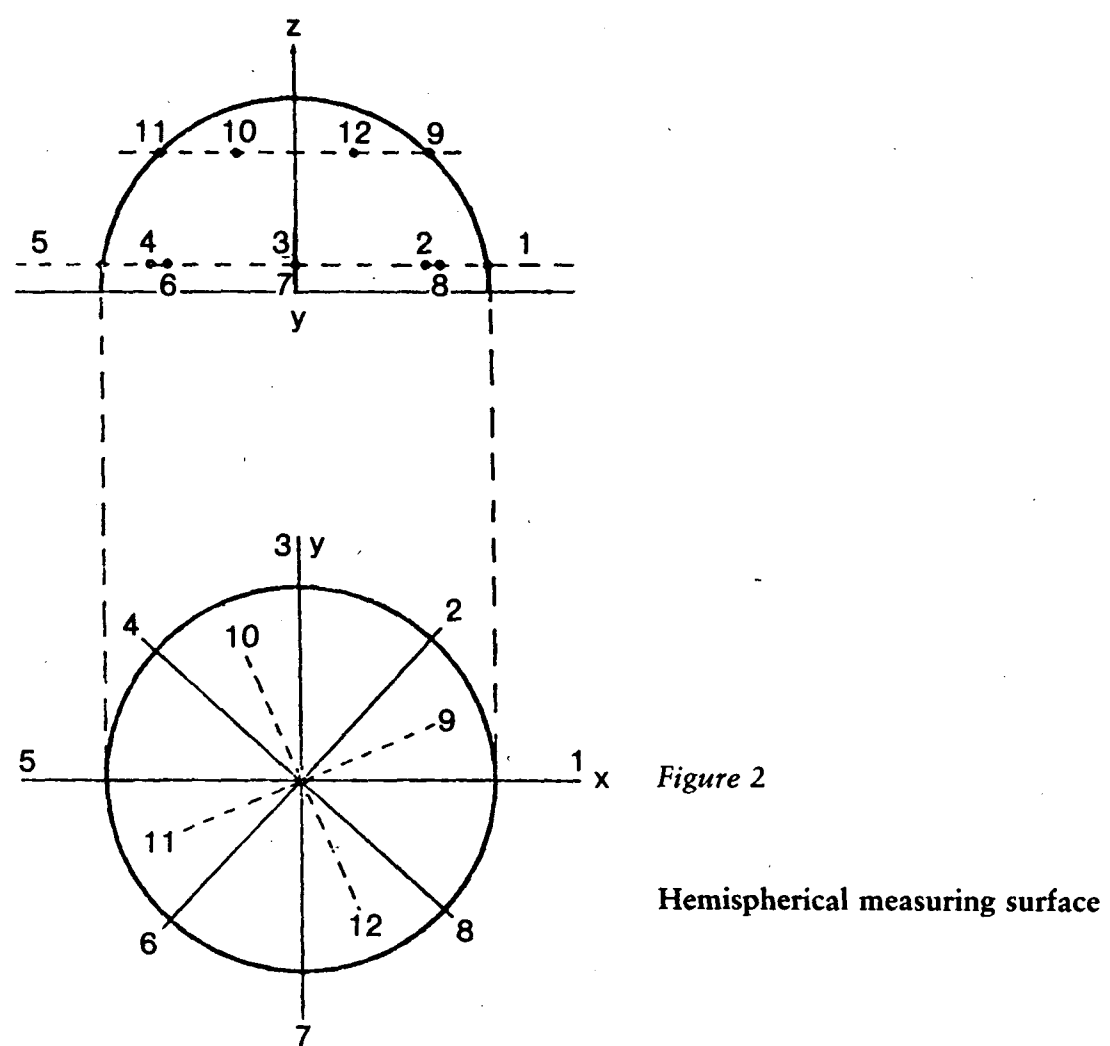
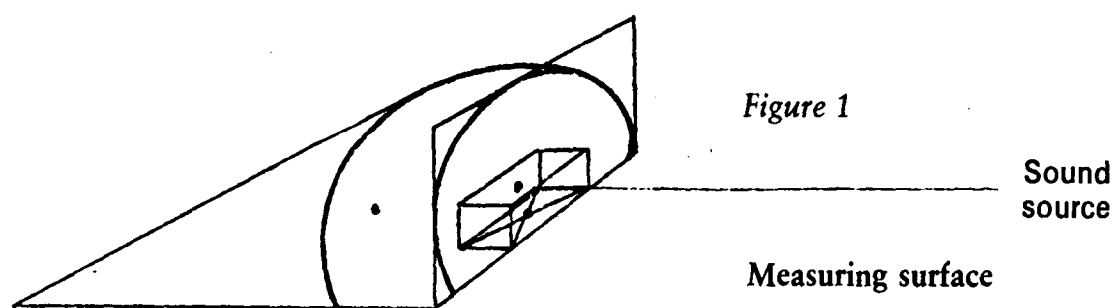
Table III gives the values of  $g$  for different values of  $\Delta L$ .

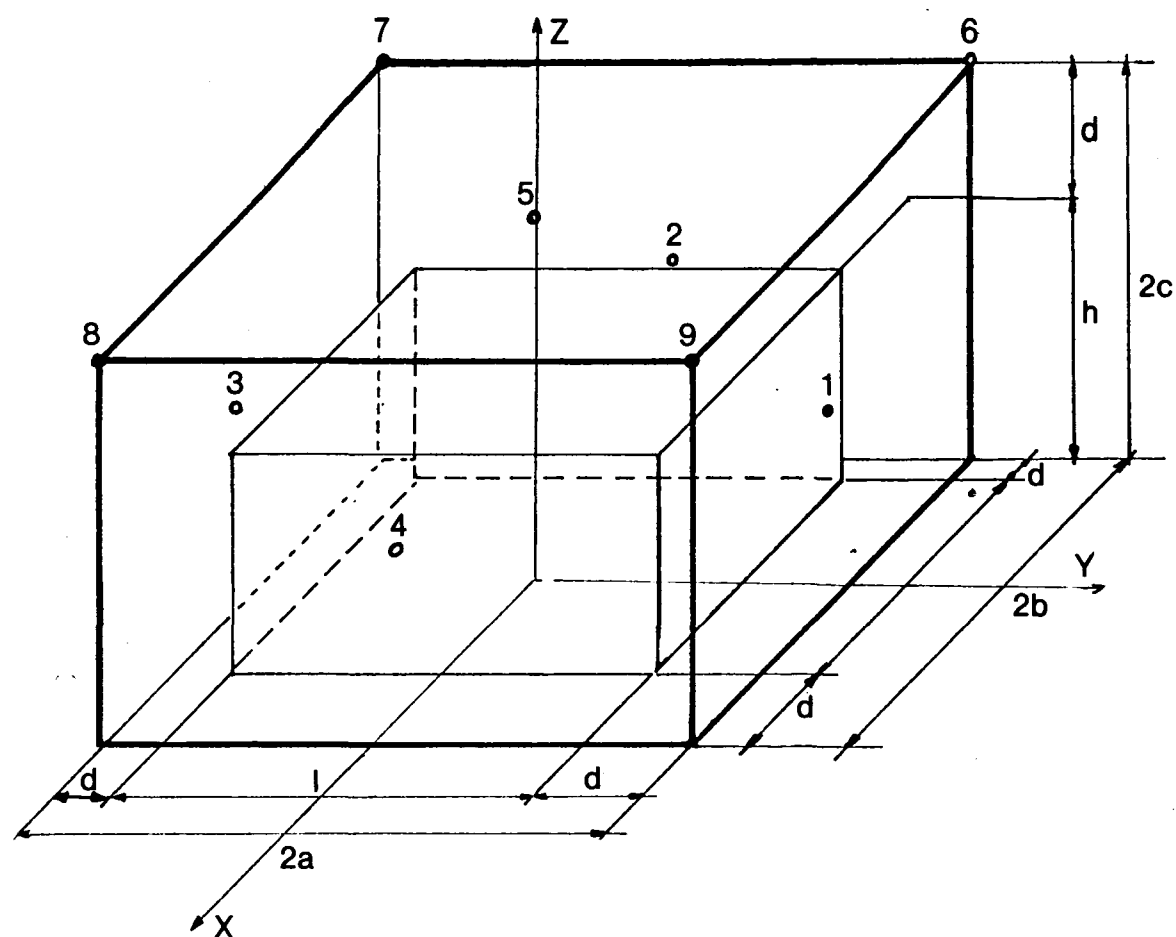
TABLE III

Value of  $g$  as a function of  $\Delta L$ 

The table may be extended in either direction.

$\Delta L$ dB	$g$	$\Delta L$ dB	$g$	$\Delta L$ dB	$g$	$\Delta L$ dB	$g$	$\Delta L$ dB	$g$
- 20.0	0.010	- 10.0	0.100	0.0	1	10.0	10.0	20.0	100.0
- 19.5	0.011	- 9.5	0.112	0.5	1.12	10.5	11.2	20.5	112.0
- 19.0	0.013	- 9.0	0.126	1.0	1.26	11.0	12.6	21.0	125.9
- 18.5	0.014	- 8.5	0.141	1.5	1.41	11.5	14.1	21.5	141.3
- 18.0	0.016	- 8.0	0.158	2.0	1.58	12.0	15.8	22.0	158.5
- 17.5	0.018	- 7.5	0.178	2.5	1.78	12.5	17.8	22.5	177.8
- 17.0	0.020	- 7.0	0.2	3.0	2.00	13.0	20.0	23.0	199.5
- 16.5	0.022	- 6.5	0.224	3.5	2.24	13.5	22.4	23.5	223.9
- 16.0	0.025	- 6.0	0.251	4.0	2.51	14.0	25.1	24.0	251.2
- 15.5	0.028	- 5.5	0.282	4.5	2.82	14.5	28.2	24.5	281.8
- 15.0	0.032	- 5.0	0.316	5.0	3.16	15.0	31.6	25.0	316.2
- 14.5	0.035	- 4.5	0.355	5.5	3.55	15.5	35.5	25.5	354.8
- 14.0	0.040	- 4.0	0.398	6.0	3.98	16.0	39.8	26.0	398.1
- 13.5	0.045	- 3.5	0.447	6.5	4.47	16.5	44.7	26.5	446.7
- 13.0	0.050	- 3.0	0.501	7.0	5.01	17.0	50.1	27.0	501.2
- 12.5	0.056	- 2.5	0.562	7.5	5.62	17.5	56.2	27.5	562.3
- 12.0	0.063	- 2.0	0.631	8.0	6.31	18.0	63.1	28.0	631.0
- 11.5	0.071	- 1.5	0.708	8.5	7.08	18.5	70.8	28.5	707.9
- 11.0	0.079	- 1.0	0.794	9.0	7.94	19.0	79.4	29.0	794.3
- 10.5	0.089	- 0.5	0.891	9.5	8.91	19.5	89.1	29.5	891.3
- 10.0	0.100	- 0.0	1	10.0	10	20.0	100	30.0	1 000.0



*Figure 3*

Parallelepiped measuring surface

**COUNCIL RECOMMENDATION****of 21 December 1978****on the ratification of the 1978 International Convention on standards of training, certification and watchkeeping for seafarers****(79/114/EEC)****THE COUNCIL OF THE EUROPEAN COMMUNITIES,**

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Whereas, at its meeting on 7 and 8 April 1978 in Copenhagen, the European Council declared that the Community should make the prevention and combating of marine pollution, particularly from hydrocarbons, a major objective;

Whereas, at its meeting on 6 and 7 July 1978 in Bremen, the European Council deemed it necessary, taking into account the proposals of individual Member States and the Commission, to take further measures to increase the safety of maritime traffic;

Whereas an International Convention on standards of training, certification and watchkeeping for seafarers was adopted in London in July 1978;

Whereas, in the interests of shipping safety and the prevention of pollution, this Convention should enter into force as soon as possible; whereas the early ratification of the Convention by the Member States would constitute a major contribution to the achievement of that objective,

**HEREBY RECOMMENDS:**

- that the Member States sign the 1978 International Convention on standards of training, certification and watchkeeping for seafarers by 1 April 1979 and ratify it as soon as possible and not later than 31 December 1980;
- that the Member States inform the Secretary-General of the Inter-Governmental Maritime Consultative Organization that they have signed and ratified the Convention in accordance with this recommendation.

Done at Brussels, 21 December 1978.

*For the Council*

*The President*

Otto Graf LAMBSDORFF



## COUNCIL DIRECTIVE

of 21 December 1978

concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel

(79/115/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Whereas, for the sake of safety at sea and of preventing marine pollution, it is necessary to ensure that vessels wishing to use the services of pilots in the North Sea and English Channel can call on adequately qualified deep-sea pilots, and to promote the employment of such pilots in vessels flying the flags of Member States,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. The Member States which have coasts bordering on the North Sea or English Channel shall take all necessary and appropriate measures to ensure that vessels availing themselves of the services of a deep-sea pilot for pilotage in the North Sea or the English Channel be provided with adequately qualified deep-sea pilots in possession of a certificate delivered by a competent authority of one of these Member States certifying that such pilots are qualified to pilot vessels in the North Sea and the English Channel.

2. Each Member State shall take all necessary and appropriate measures to encourage vessels flying its national flag to avail themselves, in the North Sea and the English Channel, of the services of only those deep-sea pilots who are in possession of a certificate as referred to in paragraph 1 or of an equivalent certificate delivered by another North Sea coastal State, when seeking the assistance of deep-sea pilots.

*Article 2*

After consulting the Commission, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1980. They shall forthwith inform the Commission thereof.

*Article 3*

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1978.

*For the Council*

*The President*

Otto Graf LAMBSDORFF

## COUNCIL DIRECTIVE

of 21 December 1978

concerning minimum requirements for certain tankers entering or leaving  
Community ports

(79/116/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Whereas, to reduce the risk of incidents involving tankers entering or leaving Member States' ports, the said tankers should be required to comply in advance with certain minimum requirements before entering and while traversing the territorial waters adjacent to the port of destination or departure;

Whereas the competent authorities should be informed of any deficiency potentially deleterious to the safety of shipping and to the marine environment; whereas a Member State in which the competent authorities are informed of circumstances involving or increasing the risk that another Member State's sea and coastal areas may be endangered should inform that Member State forthwith,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. Member States shall take all necessary and appropriate measures to ensure that oil, gas and chemical tankers of 1 600 gross registered tons and over — whether fully or partly laden — and including those empty but not yet degassed or purged of hazardous residues, entering or leaving the seaports of their territory shall, as a minimum:

A. in advance of entering,

- (i) notify the competent authority of the Member State in which the port is situated of the following information ('notification'):
  - (a) name and call sign of the vessel,
  - (b) nationality of the vessel,
  - (c) length and draught of the vessel,
  - (d) port of destination,

- (e) estimated time of arrival at the port of destination or the pilot station, as required by the competent authority,

- (f) general information on the nature and quantity of cargo,

- (g) where chemicals are being transported, information on whether or not the vessel is in possession of a certificate stating that it is a 'new vessel' under the terms of the IMCO code for the construction and equipment of ships carrying dangerous chemicals in bulk,

- (h) whether or not there are any deficiencies or incidents which may decrease the normal safe manoeuvrability of the vessel, affect the safety and easy flow of traffic or constitute a hazard to the marine environment and adjacent areas;

- (ii) complete truly and accurately a tanker check list as reproduced in the Annex to this Directive and make it available to the pilot for his information and to the competent authority, if it so requests.

B. while traversing the territorial waters adjacent to the port of entry or departure,

- (i) inform the competent authorities of any deficiencies and incidents which may decrease the normal safe manoeuvrability of the vessel, affect the safety and easy flow of traffic or constitute a hazard to the marine environment and adjacent areas,

- (ii) as soon as possible establish radiotelephony communication with the coastal radio stations designated for that purpose, preferably on VHF — in particular, with the nearest radar station, if available — and maintain such communication,

- (iii) make use, as far as possible, especially in conditions of restricted visibility, of the services provided by radar stations,

- (iv) make use of pilots, in accordance with practice and with the regulations determined by the competent authorities.

2. If the pilot learns that there are any deficiencies which may prejudice the safe navigation of the vessel, he shall immediately report these to the competent authority.

3. Member States may derogate from paragraphs 1 and 2 where the state of navigational aids, the local situation or the traffic conditions so require or permit.

#### *Article 2*

Any Member State the competent authorities of which have been informed, in accordance with Article 1 or in some other way, of facts which involve or increase the risk for another Member State of a hazard being posed to certain maritime and coastal zones, shall take whatever measures are appropriate to inform the Member State concerned thereof as soon as possible.

#### *Article 3*

Before 1 January 1980, Member States shall, after consulting the Commission, adopt the laws, regulations and administrative provisions necessary to implement this Directive. They shall inform the Commission and the other Member States of the measures taken, as well as of any provisions providing for derogations under Article 1 (3).

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1978.

*For the Council*

*The President*

Otto Graf LAMBSDORFF

## ANNEX

## TANKER CHECK LIST

## A. Vessel identification

Name of vessel	Owner	
Flag	Call sign	Year built
Port of registry	Length overall	Gross tonnage
Classification society		
Class notation	Hull	Machinery
Propulsion machinery	Output	
Agent		
Draught: forward	amidships	aft
Kind of cargo loaded (according to tank loading plan)		Volume of cargo loaded

## B. Safety installations aboard

	In good working order		Deficiencies
	Yes	No	
1. Construction and technical equipment			
Main and auxiliary engines	<input type="checkbox"/>	<input type="checkbox"/>	
Main steering gear	<input type="checkbox"/>	<input type="checkbox"/>	
Auxiliary steering gear	<input type="checkbox"/>	<input type="checkbox"/>	
Anchor gear	<input type="checkbox"/>	<input type="checkbox"/>	
Fixed fire-extinguishing system	<input type="checkbox"/>	<input type="checkbox"/>	
2. Navigational equipment			
Manoeuvring characteristics available	<input type="checkbox"/>	<input type="checkbox"/>	
First radar installation	<input type="checkbox"/>	<input type="checkbox"/>	
Second radar installation	<input type="checkbox"/>	<input type="checkbox"/>	
Gyro compass	<input type="checkbox"/>	<input type="checkbox"/>	
Standard magnetic compass	<input type="checkbox"/>	<input type="checkbox"/>	
Radio direction-finding apparatus	<input type="checkbox"/>	<input type="checkbox"/>	
Echo-sounding device	<input type="checkbox"/>	<input type="checkbox"/>	
Other electronic position fixing aids	<input type="checkbox"/>	<input type="checkbox"/>	
3. Radio equipment			
Radiotelegraphy installation	<input type="checkbox"/>	<input type="checkbox"/>	
Radiotelephony installation (VHF)	<input type="checkbox"/>	<input type="checkbox"/>	

## C. Safety certificates and other documents

	Certificates/documents valid on board	
	Yes	No
Cargo ship safety construction certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety equipment certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety radiotelegraphy certificate	<input type="checkbox"/>	<input type="checkbox"/>
Ship safety radiotelephony certificate	<input type="checkbox"/>	<input type="checkbox"/>
Load line certificate	<input type="checkbox"/>	<input type="checkbox"/>
Classification certificate	<input type="checkbox"/>	<input type="checkbox"/>
Oil liability certificate	<input type="checkbox"/>	<input type="checkbox"/>
Oil record book filled in	<input type="checkbox"/>	<input type="checkbox"/>

## D. Officers and ratings

	Yes	No	Certificate of competency (detailed description and serial number) Name, place, country of issuing authority <sup>(1)</sup>
Master	<input type="checkbox"/>	<input type="checkbox"/>	
Chief mate	<input type="checkbox"/>	<input type="checkbox"/>	
Second mate	<input type="checkbox"/>	<input type="checkbox"/>	
Third mate	<input type="checkbox"/>	<input type="checkbox"/>	
Chief engineer	<input type="checkbox"/>	<input type="checkbox"/>	
First engineer officer	<input type="checkbox"/>	<input type="checkbox"/>	
Second engineer officer	<input type="checkbox"/>	<input type="checkbox"/>	
Third engineer officer	<input type="checkbox"/>	<input type="checkbox"/>	
Radio officer	<input type="checkbox"/>	<input type="checkbox"/>	
Total number of ratings			
Deep-sea pilot taken aboard	<input type="checkbox"/>	<input type="checkbox"/>	

Date

Signature of the master or, if he is indisposed, of the deputy

<sup>(1)</sup> Member States may decide to exclude from the check list the part of section D relating to certificates of competency.

## COUNCIL DIRECTIVE

of 21 December 1978

prohibiting the placing on the market and use of plant protection products containing certain active substances

(79/117/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas plant production has a very important place in the European Economic Community;

Whereas the yield from that production is continually being affected by harmful organisms and weeds; whereas it is absolutely essential to protect plants against these risks to prevent a fall in yields and thereby help to ensure the availability of supplies;

Whereas one of the most important methods of protecting plants and plant products and of increasing the productivity of agriculture is to use plant protection products;

Whereas the effects of these plant protection products may not be wholly favourable for plant production; whereas their use may involve risks for man and the environment since, in the main, they are toxic substances or preparations having dangerous effects;

Whereas, in the case of certain plant protection products, these risks are so great that their use can no longer be wholly or partially tolerated;

Whereas the Member States have therefore not only controlled the marketing of plant protection products but have also introduced, for certain plant protection

products, restrictions or prohibitions of use covering also their marketing;

Whereas these provisions differ in the various Member States and result in obstacles to trade which directly affect the establishment and functioning of the common market;

Whereas it is therefore desirable to eliminate these obstacles by aligning the relevant provisions laid down in the Member States by law, regulation or administrative provision;

Whereas it therefore seems justified, as a basic principle, to introduce prohibitions of the use of all plant protection products containing active substances which, even when properly used for the purpose intended, give rise or are likely to give rise to harmful effects on human or animal health or to unreasonable adverse effects on the environment;

Whereas for some of these plant protection products national derogations may, however, be permitted to a limited extent for those uses where, for ecological reasons, a particular need exists and where the risk is less than in the case of their other previously sanctioned uses;

Whereas even these derogations should be phased out as soon as less hazardous treatments become available;

Whereas, on the other hand, it is necessary to grant Member States a limited right to suspend temporarily, on their own authority, prohibitions of use in the event of an unforeseeable danger threatening plant production which cannot be contained by other means;

Whereas the Directive excludes plant protection products intended for research and analytical purposes;

Whereas, moreover, it is not appropriate to apply Community provisions to plant protection products

<sup>(1)</sup> OJ No C 200, 26. 8. 1976, p. 10.

<sup>(2)</sup> OJ No C 30, 7. 2. 1977, p. 38.

<sup>(3)</sup> OJ No C 114, 11. 5. 1977, p. 16.

intended for export to third countries, since in general these countries have their own regulations;

Whereas the implementation of this Directive and the adaptation of its Annex to the development of technical and scientific knowledge necessitates a close cooperation between the Commission and Member States; whereas the procedure — for the present, limited in time — of the Standing Committee on Plant Health and involvement of the Scientific Committee for Pesticides offers a suitable basis for this,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

This Directive concerns prohibition of the placing on the market and use of plant protection products containing certain active substances.

#### *Article 2*

For the purposes of this Directive the following definitions shall apply:

##### **1. Plant protection products**

Active substances and preparations containing one or more active substances intended:

- 1.1. to destroy organisms harmful to plants or plant products or to protect them from such organisms, in so far as such substances or preparations are not defined in the following provisions;
- 1.2. to influence the life processes of plants, other than as a nutrient;
- 1.3. to preserve plant products, in so far as such substances or products are not subject to special Council or Commission provisions on preservatives;
- 1.4. to destroy undesired plants; or
- 1.5. to destroy parts of plants or to prevent undesired growth of plants.

##### **2. Substances**

Chemical elements and their compounds, as they occur naturally or by manufacture.

##### **3. Preparations**

Mixtures or solutions composed of two or more substances, or of micro-organisms or viruses used as plant protection products.

##### **4. Active substances**

Substances, micro-organisms and viruses, having general or specific action:

- 4.1. against harmful organisms; or
- 4.2. on plants, parts of plants or plant products.

##### **5. Plants**

Live plants and live parts of plants, including fresh fruit and seed.

##### **6. Plant products**

Products, in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, derived from plants, but excluding plants themselves as defined in point 5.

##### **7. Harmful organisms**

Pests of plants or of plant products, which belong to the animal or plant kingdoms, or which are viruses, mycoplasmas or other pathogens.

##### **8. Animals**

Animals belonging to species normally nourished and kept or consumed by man.

##### **9. Placing on the market**

Any transfer of possession, whether in return for payment or free of charge.

##### **10. Environment**

The relationship of human beings with water, air, land and all biological forms.

#### *Article 3*

Member States shall ensure that plant protection products containing one or more of the active substances listed in the Annex may be neither placed on the market nor used.

The first paragraph shall not apply to plant protection products which contain negligible impurities because of the nature of their manufacturing process, provided that they have no harmful effects on human beings, animals or the environment.

*Article 4*

1. By way of derogation from Article 3, Member States shall be temporarily authorized to permit the placing on the market or the use within their territory of plant protection products containing certain of the active substances listed in the first column of the Annex in the cases set out in the second column.

2. Member States shall inform the other Member States and the Commission of any cases in which paragraph 1 is applied and, if the Commission so requests, shall provide it with details of the extent to which each such active substance is used.

*Article 5*

The Directive shall not apply to plant protection products intended for:

- (a) purposes of research or analysis; or
- (b) export to third countries.

*Article 6*

1. After consultation by the Commission of the Scientific Committee on Pesticides set up under Decision 78/436/EEC <sup>(1)</sup> the following shall be adopted in accordance with the procedure laid down in Article 8:

- (a) any amendments necessary within groups A (mercury compounds) and B (persistent organochlorine compounds) of the substances in column 1 of the Annex;
- (b) any amendments necessary to column 2 of the Annex. If a derogation is to be cancelled, prior consultation of the Scientific Committee shall not be necessary, provided that all Member States have informed the Commission that they do not intend or no longer intend to avail themselves of that derogation. This information may be supplied to the Standing Committee on Plant Health set up under Decision 76/894/EEC <sup>(2)</sup>.

2. Paragraph 1 shall apply for a period of five years as from 1 January 1981.

The Council, acting unanimously on a proposal from the Commission, may decide to extend the period of validity of paragraph 1 or to remove any limit on its application.

3. Any amendments to the Annex which are not provided for in paragraph 1 shall be adopted by the Council acting on a proposal from the Commission.

4. The Commission shall examine at least every two years whether and to what extent the second column of the Annex should be amended.

5. All amendments to the Annex shall be made by reason of the development of scientific and technical knowledge.

6. An active substance shall be included in the Annex if, even when properly applied for the purpose intended, its use gives rise or is likely to give rise to:

- (a) harmful effects on human or animal health;
- (b) unreasonable adverse effects on the environment.

*Article 7*

1. If it appears necessary, because of an unforeseeable danger threatening plant production which cannot be contained by other means, to use in a Member State a plant protection product containing one or more of the active substances listed in the Annex, the Member State in question may permit the placing on the market and the use of such product for a maximum period of 120 days. It shall immediately inform the other Member States and the Commission of its action.

2. It shall be established without delay in accordance with the procedure laid down in Article 8 whether and, if so, under what conditions the action taken by the Member State pursuant to paragraph 1 may be continued or repeated.

*Article 8*

1. Where the procedure laid down in this Article is to be followed, matters shall be referred without delay by the chairman, either on his own initiative or at the request of a Member State, to the Standing Committee on Plant Health, hereinafter called 'the Committee'.

2. Within the Committee the votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission representative shall submit a draft of the measures to be adopted. The Committee shall deliver its opinion on such measures within a

<sup>(1)</sup> OJ No L 124, 12. 5. 1978, p. 16.

<sup>(2)</sup> OJ No L 340, 9. 12. 1976, p. 25.

time limit set by the chairman having regard to the urgency of the matter. Opinions shall be adopted by a majority of 41 votes.

4. The Commission shall adopt the measures and implement them forthwith where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within three months of the proposal being submitted to it, the Commission shall adopt the proposed measures and implement them forthwith.

#### Article 9

The Member States shall, not later than 1 January 1981, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

#### Article 10

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1978.

*For the Council*  
*The President*  
Otto Graf LAMBSDORFF

### ANNEX

Names of active substances or groups of active substances referred to in Article 3	Cases in which placing on the market or use are permitted in accordance with Article 4
<b>A. Mercury compounds</b>	
1. Mercuric oxide	As a paint to treat <i>Nectria galligena</i> (canker) on pomaceous fruit trees after harvesting and until budding
2. Mercurous chloride (calomel)	(a) Against <i>Plasmodiophora</i> on Brassicae (b) Treatment of onion seeds and plants against <i>Sclerotium</i> (c) Treatment of ornamental turf and turf for sports grounds against <i>Sclerotinia</i> and <i>Fusarium</i>
3. Other inorganic mercury compounds	
4. Alkyl mercury compounds	(a) Dipping of flower bulbs and seed potatoes (b) Treatment of basic and prebasic cereal seed, except maize, and sugar beet seed
5. Alkoxyalkyl and aryl mercury compounds	(a) As a paint to treat <i>Nectria galligena</i> (canker) on pomaceous fruit trees after harvesting and until budding (b) In autumn to prevent <i>Nectria galligena</i> (canker) in Bramley apple trees if necessary in Northern Ireland, after an exceptionally humid summer (c) Dipping of flower bulbs and seed potatoes (d) Seed treatment of cereals, beet, flax and rape



Names of active substances or groups of active substances referred to in Article 3	Cases in which placing on the market or use are permitted in accordance with Article 4
<b>B. Persistent organo-chlorine compounds</b>	
1. Aldrin	(a) Soil treatment against <i>Otiorrhynchus</i> in nurseries, strawberry beds before planting out, beds of ornamentals and vineyards (b) Treatment of potatoes grown in former pastureland against <i>Agriotes</i> in Ireland and the United Kingdom (c) Treatment of narcissi which have to remain two or three years in the ground against <i>Merodon equestris</i> , <i>Eumerus strigatus</i> and <i>Eumerus tuberculatus</i>
2. Chlordane	
3. Dieldrin	
4. DDT	(a) As a dip against <i>Hylobius</i> in conifer seedlings (b) Treatment of individual trees against <i>Scolytidae</i> to combat <i>Ceratocystis ulmi</i> (c) Treatment of sugar beet, potatoes and ornamental turf or turf for sports grounds against <i>Melolontha</i> , <i>Amphimallon</i> , <i>Phyllopertha</i> , <i>Cetonia</i> and <i>Serica</i> (d) Treatment of sugar beet, potatoes, strawberries, carrots and ornamentals against <i>Agrotis</i> and <i>Euxoa</i> (e) Treatment of cereals against <i>Tipula</i>
5. Endrin	(a) As an acaricide on cyclamen and on strawberry propagating material (b) Treatment against <i>Arvicola terrestris</i> L. in orchards without subcultivation
6. HCH containing less than 99.0 % of the gamma isomer	
7. Heptachlor	Treatment at their preparation stage of beet seed against <i>Atomaria linearis</i> , <i>Agriotes</i> spec., <i>Myriapoda</i> and <i>Collembola</i>
8. Hexachlorobenzene	