

COUNCIL DIRECTIVE

of 22 March 1988

amending Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations

(88/182/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE :

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100A, 213 and 43 thereof,

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

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas experience in implementing Directive 83/189/EEC ⁽⁴⁾ has shown that certain amendments would be appropriate in order to increase its effectiveness as an instrument intended to facilitate the free movement of goods within the Community by preventing the creation of new barriers to trade;

Whereas the Standing Committee set up pursuant to Article 5 of Directive 83/189/EEC should be consulted on the draft standardization requests referred to in Article 6 (3) of that Directive;

Whereas the introduction of national measures must not be allowed to compromise the adoption, by the Council, of Commission proposals in the same field; whereas, to this end, it is necessary to provide for a 12-month standstill period to take effect from the date of submission of the said proposals, during which Member States must refrain from adopting technical regulations in the field in question,

Article 1

Directive 83/189/EEC is hereby amended as follows :

1. The following recital is added after the fifth recital :

'Whereas the Member State concerned must take account of these amendments when formulating the definitive text of the measure envisaged;'

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

'and the production methods and procedures for agricultural products as defined in Article 38 (1) of the Treaty and for products intended for human and animal consumption and for medicinal products as defined in Article 1 of Directive 65/65/EEC ⁽¹⁾, as last amended by Directive 87/21/EEC. ⁽²⁾

⁽¹⁾ OJ No 22, 9. 2. 1965, p. 369/65.

⁽²⁾ OJ No L 15, 15. 1. 1987, p. 36.'

3. Article 1 (7) is replaced by the following :

'(7) "product", any industrially manufactured product and any agricultural product.'

4. The following indent is added to Article 6 (3) :

'— identify the areas where harmonization appears necessary, and, should the case arise, undertake appropriate harmonization in a given sector.'

5. The following is added to Article 6 (4) :

'(e) on the requests to the standards institutions referred to in the first indent of paragraph 3.'

6. The following is added to the end of the first subparagraph of Article 8 (1) :

'Where appropriate, Member States shall simultaneously communicate the text of the basic legislative or regulatory provisions principally and directly concerned, should knowledge of such text be necessary to assess the implications of the draft technical regulation.'

7. The second subparagraph of Article 8 (1) is replaced by the following :

'The Commission shall immediately notify the other Member States of any draft it has received; it may also refer this draft to the Committee referred to in Article 5 and, if appropriate, to the Committee responsible for the field in question for its opinion.'

⁽¹⁾ OJ No C 71, 19. 3. 1987, p. 12 and OJ No C 3, 7. 1. 1988, p. 6.

⁽²⁾ OJ No C 345, 21. 12. 1987 and Decision of 10 February 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No C 319, 30. 11. 1987, p. 20.

⁽⁴⁾ OJ No L 109, 26. 4. 1983, p. 8.

8. Article 9 is amended as follows :

(a) in paragraph 1, 'Without prejudice to paragraph 2' is replaced by 'Without prejudice to paragraphs 2 and 2 (a)';

(b) the following text is added at the end of paragraph 1 :

'The Member State concerned shall report to the Commission on the action it proposes to take on such detailed opinions. The Commission shall comment on this reaction.';

(c) the following paragraph is inserted :

'2 (a) If the Commission ascertains that a communication pursuant to Article 8 (1) relates to a subject covered by a proposal for a directive or regulation submitted to the Council, it shall inform the Member State concerned of this fact within three months of receiving the communication.

Member States shall refrain from adopting technical regulations on a subject covered by a proposal for a directive or regulation submitted by the Commission to the Council before the communication provided for in Article 8 (1) for a period of 12 months from the date of its submission.

Recourse to paragraphs 1, 2 and 2 (a) of this Article cannot be cumulative.';

(d) paragraph 3 is replaced by the following :

'3. Paragraphs 1, 2 and 2 (a) shall not apply in those cases where, for urgent reasons relating to the protection of public health or safety, the protection of health and life of animals or plants, a Member State is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible. The Member State shall give, in the communication referred to

in Article 8, the reasons which warrant the urgency of the measures taken. The Commission shall take appropriate action in cases where improper use is made of this procedure.'

9. Article 10 is replaced by the following :

Article 10

Articles 8 and 9 shall not apply where the Member States fulfil their obligations as arising out of Community directives and regulations; the same shall apply in the case of obligations arising out of international agreements which result in the adoption of uniform technical specifications in the Community.'

10. The following subparagraph is added to Article 11 :

'The Commission shall report annually to the European Parliament on the results of the application of this Directive.'

Article 2

1. Member States shall take the measures necessary to comply with this Directive not later than 1 January 1989. They shall forthwith inform the Commission thereof.

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

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 22 March 1988.

For the Council

The President

M. BANGEMANN