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COMMUNICATION FROM THE COMMISSION

ON SAFETY OF CONSUMERS IN RELATION  
TO CONSUMER PRODUCTS

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## I. INTRODUCTION

On 23 July 1985, the Commission submitted a Communication to the Council concerning a "New Impetus for a consumer protection policy". This document supplements the White Paper on "Completing the internal market" sent to the Council on 27 June 1985 and makes reference particularly to point 72 of the White Paper, and will ensure that the completion of the internal market leads to the development of the well-being of citizens as envisaged in the preamble and in Article 2 of the EEC Treaty.

The New Impetus for a consumer protection policy is intended to ensure that consumers benefit fully from the completion of the internal market and to assure their safety through consumer products in free circulation meeting a high and sufficient level of safety.

The Council approved, by its Resolution of 23 June 1986 (O.J. n° C 167 of 5.7.1986), the general orientation contained in the Communication of 23 July 1985 and invited the Commission to submit appropriate proposals.

The Communication of 23 July 1985, confers a special priority to consumer safety, which has become a new social, economic and socio-political challenge, requiring a new global political approach. The importance of consumer safety derives from the recognition and increasing awareness of the phenomenon of accidents in the "private sphere" which are partially due to the consumer products themselves and, partially to the behaviour of the users.

Around 80% of all accidents occur in the private sphere : in the home, during leisure-time activities, sports and at school, whereas road accidents only represent 5-6% and accidents at work between 10 and 15%.

For the Community of Twelve, with a total population of around 321 million inhabitants, this represents per annum about 45 million "domestic" accidents which require medical attention, most frequently in hospital casualty departments, and between 50,000 and 80,000 fatal accidents.

Approximately 40-50% of these accidents involve children and adolescents up to 19 years old. These figures are particularly worrying if one remembers that the population of the Community is tending to decrease : children constitute our most precious resource.

The incidence of this phenomenon of accidents in the private sphere on the economy and society is considerable :

- it contributes to an important extent to the explosion of costs in the health and social security systems;
- it adversely affects the productivity of the economy and of companies within the Community.

About three million workers in the Community are away from work following accidents in the private sphere : the average absence due to this category of accidents is 17 working days per annum. A precise quantitative evaluation of the socio-economic phenomenon of consumer safety and its cost to the economy and to society is still the subject of analysis and in-depth studies.

The figures available at present are only estimates but they nevertheless allow one to form a realistic idea of the order of magnitude of the phenomenon.

The long-term effects of the injuries caused by such accidents still need to be subjected to thorough examination.

The governments of the Member States of the Community and in non-member countries are more and more aware of this phenomenon and have begun to adopt general consumer safety laws.

So is it that France, Spain, United Kingdom and the Federal Republic of Germany (FRG) already have such laws. Six other Member States of the Community, either have current plans in a more or less advanced state for general legislation on consumer safety or are at present discussing the matter in Parliament or envisage the preparation of such general legislation. This means ten out of the twelve Member States of the Community !

Only two Member States do not appear to have such legislation or to envisage taking such a course, according to the information at present available to the Commission.

The laws in question all adopt a more or less similar approach : they impose on manufacturers, distributors and importers, a general obligation to market only safe products, an obligation to supply information and to carry out surveillance of the markets for consumer products as well as an obligation to take action whenever serious and immediate risks arise to users of consumer products. They also provide for powers to act to temporarily or permanently prohibit the marketing of dangerous consumer products. In spite of the fact that national laws adopt a similar approach, they do however differ in their content.

It is so that there are laws or draft laws which include services (France, Spain, Denmark) while others exclude them. The horizontal nature of the provisions also varies : in certain countries a large number of vertical provisions exist, which are applied to the detriment of horizontal measures. The scope of the general obligation differs from country to country and depends on the definition of the conditions of use of the products : normal conditions of use, conditions reasonably foreseeable by a professional, etc...

Finally, the powers given to those bodies responsible for safeguarding the safety of consumers constitute a further variation between Member States.

The existence of different and divergent regulations risks creating new barriers to the free circulation of goods as soon as safety requirements vary from one country to another and as a consequence risk becoming an obstacle to the completion of the internal market by 1992.

The Commission service responsible has entrusted three studies to highly qualified experts. These studies concern the phenomenon of consumer safety, relevant national legislation and its impact on the development of the Community<sup>1</sup>. All these studies agreed in their conclusions :

- It is necessary to put consumer safety on a Community level where no particular Community legislation, fixing essential safety requirement, exists and to implement a Community policy for the health and safety of consumers, if it is wished that the internal market of the Community actually be achieved.

The studies in question underline an urgent need for action in this area via the preparation of a general directive on the safety of consumers with regard to consumer products.

A workshop on consumer product safety in the European Community, organized by the Commission on 2nd and 3rd April 1987 in Bremen (FRG), broadly confirmed the general conclusions of the three studies mentioned above. In the view of the participants of the workshop (representatives from Member States governments, industry and university experts in Community and consumer law), the question of the desirability of Community legislation on the general safety of Consumers need no longer be considered; rather it is the detail of the directive and the associated procedural matters which now have to be discussed. In the opinion of the majority of the experts present, a general directive on consumer safety forms an indispensable complement to the new approach to technical harmonization and standards and to the Directive on product liability, to ensure the completion of the internal market before 1992 and at the same time to guarantee European Consumers an equivalent and sufficient level of safety when using consumer products in free circulation in the Community.

Furthermore, consumer organizations, members of the European Parliament and of the Economic and Social Committee of the Community, including the relevant sections of these two Community institutions, as well as the United Kingdom House of Lords and many other public and private bodies have repeatedly asked for Community legislation on the general safety of consumers.

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1 <sup>1</sup> "Consumer Safety in the United Kingdom" Brunel University, Centre for Consumer Law.

<sup>2</sup> "Safety of Consumer Goods and the development of the Community" Zentrum für Europäische Rechtspolitik", Bremen.

<sup>3</sup> "Consumer Product Safety Legislation in the Member States of the Community" ERCO SpA - Brussels.

In its Communication to the Council of 23 July 1985, on a New Impetus for a consumer protection policy, the Commission promised a report on the general obligation to market goods which are safe. By the present Communication, the Commission discharges its undertaking in this matter.

The Commission believes that the Community urgently needs a general directive on consumer safety imposing in particular a general obligation on manufactureres, traders and importers, to produce and market only safe products, an obligation to supply information and to carry out surveillance of the markets for their consumer products, as well as an obligayion to take action whenever serious and immediate risks arise to users of consumer products.

## II. THE PRESENT SITUATION OF MEMBER STATE LEGISLATION ON CONSUMER SAFETY

The situation of consumer safety legislation in the Community differs very much from one Member State to another.

Recent years have seen considerable changes in the legislation of Member States. Two countries have amended their legislation (United Kingdom, France) and another one has introduced comprehensive new legislation (Spain). Other countries are in the process of modifying the existing legislation : thus Belgium, Denmark, Ireland, Italy, The Netherlands and Portugal have draft laws which are being considered either at executive or legislative level.

Three factors may explain the present general trend to supplement or modify existing legislation :

- the proliferation of vertical regulations enacted as a consequence of pressing needs linked to certain particular products;
- an awareness that the application of general civil or mercantile law provisions is not sufficient to provide an appropriate level of protection to consumers;
- a growing consciousness of the socio-economic importance of accidents in the private sphere.

A distinction can be made between those countries already having horizontal legislation and those countries which have it only in draft form.

At present, Spain, France, United Kingdom and the Federal Republic of Germany have enacted general legislation. Six other Member States have draft laws in a more or less advanced state or are preparing horizontal legislation.

France's horizontal legislation dates back to 1905 and was considerably modified in 1983 when a general duty to manufacture only safe products was introduced. Products which do not comply with this general safety obligation are either prohibited or regulated.

The United Kingdom enacted in 1961 the Consumer Protection Act, an enabling act giving authority to the administration to adopt regulations. The Act was considerably amended in 1978 by the Consumer Safety Act which provides for measures to be taken by administrative authorities in order to intervene in the market to combat existing or foreseeable risks. The measure introducing a general safety requirement is now being discussed in Parliament as part of the draft law which will effect the transposition of the Product Liability Directive. It is expected to be passed during the course of 1987, probably during the first half of the year.

In 1984 Spain enacted a general law applicable to all consumer products and services including a general safety duty whereby products placed on the market must not imply risks for consumers' health and safety.

The Federal Republic of Germany has two important laws on consumer safety, via a law on food products, cosmetic products, toys, tobacco and other products in general use (Gesetz zur Neuordnung und Bereinigung des Rechts im Verkehr mit Lebensmitteln, Tabakerzeugnissen, Kosmetischen Mitteln und sonstigen Bedarfsgegenständen : Lebensmittel- und Bedarfsgegenständengesetz of 5.8.1974) and a law of 1968 on appliances (Gerätesicherheitsgesetz). These two laws which, strictly speaking, are not horizontal, cover almost all consumer products and establish an obligation to manufacture or to market only products which are safe, in accordance with commonly admitted technical rules.

This reference to technical rules is a feature of German legislation. Preventive and punitive measures are available to the authorities, which may order the withdrawal of a product from the market or its immediate prohibition.

In Denmark, product safety legislation is a rather complex combination of civil law provisions and public law regulations. The Sale of Goods Act and the Marketing Practices Act deal with certain aspects of product safety allowing the Consumers' Ombudsman to ensure that product safety regulations are duly observed and to negotiate standards thus providing for an efficient monitoring of the market. A project for horizontal legislation has been under consideration in Parliament during the past few weeks.

Belgium, Ireland, Italy the Netherlands and Portugal do not have horizontal legislation at present but its introduction is being considered, including a general safety duty.

In the Netherlands the draft law is being discussed in Parliament and its approval is expected during the first half of 1987.

In Portugal a draft is being discussed at Ministerial level and will probably be adopted during 1987.

In Italy a proposal for a law has been submitted to Parliament.

In Ireland the introduction of horizontal consumer safety legislation is currently being discussed by the relevant Ministries.

Greece and Luxembourg are, on available information, the only Member States which do not have either horizontal legislation or any current plans and do not, for the time being, envisage taking any initiative in this direction.

This description of the situation in Member States shows to what extent legislation varies from one country to the other. A table is included at the end of this chapter with the main elements of legislation in each country and the state of progress.



Where it exists, general legislation on consumer safety also allows the authorities to take action when dangers arise from the use of non-regulated products. In countries where there is no general legislation, it is extremely difficult, if not impossible, to take rapid action on non-regulated products as prior consultation and approval must be obtained from the legislative body.

In general terms it can be said that the trend in Member States legislation is towards the introduction of horizontal consumer safety legislation. The Community is thus following the general trend discernable at international level within the industrialised countries of the Western World.

The legal situation within the Community at the end of 1987 will be that half of the Member States will probably have a general consumer safety legislation at national level which is not harmonized with that of other Member States.

It can be expected that before 1992 ten of the twelve Member States, if not all, will have adopted such general legislation. There is therefore an urgent and indispensable need to harmonize and adopt a general directive on consumer safety in order to ensure the achievement of the Internal Market and an equivalent level of consumer protection and of consumer product safety within the European Community.

	Belgium	Denmark	Germany	Greece	Spain	France	Ireland	Italy	Luxemb.	Netherl.	Portug.	U.K.
Horizontal legislation	Envis- aged	Under consid. by Parl.	Yes 1)	No	Yes	Yes	Includ. in present governm. programme	A proj- is und. consid.	No	A proj- is und. consid.	A proj- is und. consid.	Yes
General duty to manufacture safe products	Envis- aged	Includ. in the project	Yes 1)	No	Yes	Yes	Envisaged	Envis- aged	No	Includ. in the project	Includ. in the project	Yes
Compulsory product recall applicable to all products or power of public inter- vention on temporary or definite prohibition l'interdiction temporaire ou definitive	Envis- aged	Includ. in the project	Yes 1)	No	Yes	Yes	Envisaged	Envis- aged	No	Includ. in the project	Includ. in the project	Yes

1) Two German specific laws : "Food products, cosmetic products, toys, tobacco and other products in general use Act" (Gesetz zur Neuordnung und Bereinigung des Rechts im Verkehr mit Lebensmitteln, Tabakerzeugnissen, kosmetischen Mitteln und sonstigen Bedarfsgegenständen : Lebensmittel- und Bedarfsgegenständegesetz of 5.8.1974) and "Appliances Safety Act" of 1968 (Gerätesicherheitsgesetz) although they are not, strictly speaking, horizontal, are applied to a large number of products and establish the obligation to manufacture or to place on the market only safe products according to commonly admitted technical rules.

### III. SITUATION AND TRENDS IN NON-MEMBER COUNTRIES

#### 1. The United States

Since 1972, the United States has had in the Consumer Product Safety Act (CPSA) a far-reaching instrument in the product safety field. The CPSA covers all consumer goods, except those products the risks from which are handled by special agencies. Moreover, the "Consumer Product Safety Commission" created by the Act and vested with wide powers, is entrusted with the administration of special laws covering specific products.

The CPSA provides for rulemaking procedures in order to establish voluntary or mandatory standards, for prohibitions (bans) of products involving an "unreasonable risk of injury", for seizures, public warnings, recalls, repairs or replacement in case of serious danger. The checks subsequent to the placing on the market have acquired great importance.

An important feature of the CPSA is the obligation of manufacturers, distributors or other traders to inform the Commission of any "substantial product hazards" which come to their knowledge.

#### 2. Japan

In Japan the development of safety measures is based on a close cooperation between the authorities, consumers and the industrial sectors concerned. Under the Consumer Product Safety Act 1973, which is administered by the Ministry for International Trade and Industry (MITI); products posing a safety problem are designated by Cabinet order based on evidence of the actual accidents, complaints, etc., after consultation with the Consumer Product Safety and Household Goods Labelling Council. The preparation of draft proposals for safety standards is entrusted to the Product Safety Association, which was established to promote product safety measures.

Where the manufacturers, importers, wholesalers or retailers sell any non-complying products, the government authorities have powers to request them to take emergency measures such as recalls, modification of the product, suspension of sales, etc. These powers, however, have not yet been invoked.

#### 3. Other countries

Horizontal laws on consumer safety or product safety have been prepared in other industrial countries in recent years : in Austria, Australia, Canada, Finland, Norway, New Zealand and Sweden.

Finland has recently enacted a Product Safety Act, which comes into force in May 1987, covering all consumer products except those already regulated by specific legislation such as electric appliances. The Act contains a general obligation imposed on manufacturers, traders and importers not to produce, sell or import unsafe products and provides for the prohibition of unsafe products or of products not complying with the hazard information requirements.

The "National Board of Trade and Consumer Interest" is responsible for the implementation of the Act. The supervision and control of products devolves upon various local and national bodies.

In 1983, Austria enacted a new legislation which provides a broad basis for product safety measures.

In Sweden the Marketing Act of 1975 is, to some extent, considered as a substitute for general product safety legislation. The Board for Consumer Policies, headed by the Consumer Ombudsman, monitors the market and concentrates on issues not covered by specific regulations.

In Norway, the Product Control Act administered by the Norwegian State Pollution Control Authority imposes obligations concerning consumer safety and the environment on manufacturers, distributors and gives wide powers to the authorities.

Australia also has general legislation on consumer product safety similar to that of the United Kingdom's Consumer Safety Act, in its recently amended form. The Australian law is a framework law, which has to be developed by way of regulations. In 1986 regulations were issued on the recall of consumer products and the export of dangerous products.

#### IV. THE NEED FOR A GENERAL DIRECTIVE ON CONSUMER SAFETY IN THE COMMUNITY

##### 1. Member States are in course of adopting very different laws.

A study of existing and proposed laws shows the wide diversity of approach, means and solutions adopted in Member States. This diversity leads to contradictions and the risk of barriers to trade and distortions of competition is great. In order to avoid these barriers and distortions, it is necessary to harmonize Member State laws in the matter of consumer product safety. Without such a harmonization the achievement of the internal market will not be possible.

##### 2. Reinforce consumer confidence and improve the competitiveness of European products.

A firm undertaking by manufacturers, traders and importers to supply safe goods will restore consumers' confidence, as soon as they have proof that a mechanism exists capable of dealing with dangerous or risky situations.

Moreover, an obligation on the manufacturer to market only products which are safe will also increase the quality of European products and will thus improve the competitiveness of European firms vis-à-vis their competitors.

##### 3. A global approach : a need already felt for some years by the Community.

The basic guidelines for a horizontal safety policy is to be found in the two action programmes for the protection and information of consumers (O.J. n° C 92 of 25.4.1975 and n° C 133 of 3.6.1981); in the first of these programmes, the following principle deserves to be emphasized (point 15 a) i):

- "i) Goods and services offered to consumers must be such that, under normal or foreseeable conditions of use, they present no risk to health or safety of consumers. There should be quick and simple procedures for withdrawing them from the market in the event of their presenting such risks".

The second action programme for the protection and the information of consumers contains the fundamental principles of a horizontal policy of product safety, even if it approaches the problem from the angle of information and improvements in cooperation.

The policy of the Community for the protection of consumers has in parts, lagged behind the programmes planned. The Commission has mentioned, as one of the main reasons for the delay, in its Communication to the Council on "A New Impetus for Consumer Protection Policy" of 23.7.1985 (COM (85) 314 fin. point 9) : "...the practice of (submitting) proposals prescribing rules for a restricted range of goods or ingredients (vertical harmonization)" instead of "...fewer proposals each having a more general coverage, as is envisaged in the new approach to technical harmonization and standards". The Council Resolution of 7 May 1985 (O.J. n° C 136 of 4.6.1985) thus represents great progress in this direction.

For this reason, the Commission proposes in the Communication concerning the New Impetus (point 23) "to consider the need for action at Community level to facilitate and/or improve procedures, as already exist in some Member States, for imposing temporarily or permanently restrictions or prohibitions on the marketing of particular goods". This consideration will also assess the need for the imposition at Community level of "a general obligation on manufacturers to produce and market products which are safe". Such a general obligation to be efficient at Community level, should moreover be coupled with a Community surveillance procedure.

#### 4. Stages by which the Community moves towards the creation of horizontal legislation on consumer safety.

A general law for consumer safety is the logical consequence of the approach taken by the creation of the two horizontal instruments which already exist on the subject :

- The Council Decision of 2 March 1984 setting up a system for the rapid exchange of information on dangers arising from the use of consumer products.  
This decision provides for the reciprocal exchange of information on certain measures which Member States take in respect of products which present a danger to consumers. Only measures taken at national level are included in this exchange. Products which are the subject of equivalent notification procedures are excluded. The Council Decision is of limited duration and must be renewed and/or amended in 1988 (Art.8 (2)). An exchange of information alone has been shown to be insufficient and action at Community level would be needed to harmonize the national measures.
- The Council Decision of 26 April 1986 regarding a demonstration project concerning accidents (at home and during leisure activities) in which consumer products are involved.

The European Parliament as well as the Economic and Social Committee had, at the time, stressed the importance of such a system of data collection for home accidents. The Committee had even stated in its opinion, that the collection of data should not be an end in itself:

"The Committee is concerned, however, that the ultimate objectives of the proposal must not be lost sight of. Collecting statistics must not be an end in itself, and the Commission should set up procedures to ensure that action is taken in respect of products and features which cause accidents. Such action would involve for example product recall and redesigning of products or features, and the setting of appropriate standards at Community and international level." (O.J. n° C 188 of 29.7.1985 p.9).

As for the European Parliament, it considered the project as a stage towards a common product safety policy. In its resolution, the Parliament:

"Considers that a system for monitoring accidents is a prerequisite for action and must therefore lead to a common policy on product safety, and in particular on the withdrawal of dangerous products". (O.J. no. C 68 of 24.3.1986 p.189)

Community priorities should not therefore be limited to the creation of an effective data collection system for the 1990's, but should also guarantee the rapid use of the information obtained and permit, if necessary, the adoption of Community measures on consumer safety in the framework of horizontal Community legislation.

#### 5. Directive on liability for defective products

An important horizontal instrument for Consumer Protection is the **Council Directive of 25 July 1985 concerning liability for defective products** (O.J. no. L 210 of 7.8.1985 p.29).

The entry into force of this Directive constitutes a very important advance in the position of consumers. The Directive includes a liability without fault on the part of the manufacturer i.e.: consumers who have suffered injury caused by a product do not need to prove the negligence or the fault of the manufacturer, as was the case hitherto, but only that the injury was caused by the product.

The system of objective liability introduced by the Directive can be validly supplemented by the enactment of a general safety obligation at Community level. The system of objective liability has an indirect and selective effect on the safety level of consumer products. The obligation to pay compensation imposed on manufacturers - even if it has a certain preventive effect because manufacturers will, either, because of the requirements of the insurance policies to which they must subscribe or because of their decision to avoid long and expensive court cases, normally raise the level of safety of their products - has as its aim that injuries be compensated. It is therefore a compensation-based approach, whereas the imposition of a general safety duty is prevention-based. There are thus two approaches which are not mutually exclusive but are complementary. It is therefore clear that the proposed legislation will not affect the introduction of the Directive on liability for defective products.

This is indeed the course followed by the United Kingdom Law, which includes in the bill now being discussed in Parliament, both the transposition of the product liability Directive and a general safety obligation and the course followed by the other Member States who have already, or will include a general safety obligation just before or just after the transposition of the Directive on liability for defective products.

6. The problems mentioned above are inextricably linked to the Community's priority objective, that is, the completion of the Internal Market.

Community policy on consumer safety must guarantee at the same time the free circulation of goods within the Community and the safety of consumer goods in the context of the protection of consumers. It must be stressed that differences in national provisions concerning consumer safety can create non-tarif barriers to trade among Member States thus endangering the creation and the functioning of the Internal Market.

Article 30 of the EEC Treaty contains a prohibition of such barriers. The decisions of the European Court of Justice, in particular the case "Cassis de Dijon"<sup>2</sup>, stated that any product which is legally manufactured or put on the market in one Member State must be allowed to be marketed in the other Member States. However, the Court admits the existence of exceptions to this principle when "mandatory requirements", consumer protection inter alia, justify the prohibition to market a product. In addition, article 36 of the EEC Treaty provides that barriers may be justified, inter alia, for reasons of protection of health and life of humans but these barriers must not constitute either a means of arbitrary discrimination or a disguised restriction on inter-Member State trade.

These principles have been confirmed and elaborated upon by the Court of Justice in decisions subsequent to the "Cassis de Dijon" case. The Court has stated that a Member State does not have the right to prohibit the placing on the market of a product, coming from another Member State, which does not comply precisely and exactly with technical specifications or provisions applicable to products manufactured on its territory, if such product guarantees the same level of protection to users as the level that national regulation of such Member State intends to guarantee<sup>3</sup>.

The principle of "reciprocal recognition" has been confirmed as regards both product specifications and tests allowing to apply said specifications.

As a consequence of the above-mentioned decisions and as indicated in the Communication on the Cassis de Dijon Decision (O.J. no. C 256 of 3.10.1980) the Commission put into effect a new harmonisation policy concentrating its efforts on those areas in which the Member States relied on mandatory requirements or on the objectives of article 36 of the EEC Treaty.

7. The New Approach to technical harmonization and standards.

The policy of the Community on the question of harmonization of laws has changed substantially since the "New Approach", of which the first step is Directive 83/189/EEC, which sets out an information procedure in the field of standards and technical regulations.

2 CJEC 28.2.1979, aff. 120/88 (Rewe Zentral v. Bundesmonopolverwaltung für Branntwein) Rec. 1979, p.649

3 See CJEC, 28.1.1986, aff. 183/84 (Commission v. France), not yet published.



Under the Council Resolution of 7 May 1985, which endorsed an outline text containing the principles and main elements which should make up the body of the directives, harmonization of laws on specific products or categories of products must be limited to the adoption of "essential safety requirements" while the preparation of "technical specifications" is left to "competent standards bodies".

The model directive, annexed to the Resolution, lays down that Member States should, on their territory, ensure the safety and the protection of the health of the consumer with regard to the risks covered by the specific sectorial directives.

This vertical approach recommended by the Resolution of 7 May 1985, is valid from the point of consumer safety as far as risks from products covered by the various sectorial directives are concerned. Products which are not covered by vertical directives are therefore outside the ambit of any safety legislation.

This then is the gap which only horizontal consumer safety legislation can fill. Thus a directive introducing a general obligation, at Community level, to market only products which are safe for consumers is the necessary complement to the new approach.

Such a directive would also permit the Community to act when dangerous products are found on the market and would provide the Community with a general protection applicable to all consumer products.

8. Improvement of inter-administrative cooperation between the authorities responsible for enforcement and surveillance.

Finally, it is as important to ensure, in the context of Community rules on consumer safety, that there is mutual confidence in the Member States as to the level of a posteriori enforcement carried out by inspection bodies as to develop and ensure a permanent and extensive administrative cooperation between national enforcement bodies and between them and the Commission.

## V. CONCLUSIONS

The Commission believes it necessary that the European Community have a general directive on consumer safety vis-à-vis consumer products, imposing in particular a general obligation on manufacturers, traders and importers to produce and market only products which are safe. In addition, such a directive would supplement the New Approach to technical harmonization and standards and the Directive on Liability for defective products. It would not therefore affect either present or future sectorial directives or the Commission's scope for action concerning infringements of the provisions of the EEC Treaty, in particular Articles 30 and 36 on the free circulation of goods.

On the contrary, such a general directive, by ensuring a uniform interpretation of the general safety obligation, would reduce the possibility on the part of the Member States to use the overriding requirements as defined by the Court of Justice, in order to limit or prevent the free circulation of goods.

Only a general directive on consumer safety will be capable of validly harmonizing the existing or planned horizontal and general laws of Member States and of ensuring that European consumers enjoy an equivalent and sufficient level of safety when using consumer products in free circulation in the Community, while at the same time assuring the completion of the great internal market by 1992.

In this respect, the Commission shortly intends to submit to the Council a proposal for a general directive on consumer safety in relation to consumer products.