

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(90) 172 final

Brussels, 4 May 1990

REPORT FROM THE COMMISSION

on a Community system for the rapid exchange of information on dangers arising from the use of consumer products in accordance with Article 8 of the Council Decision of 21 December 1988 (89/45/EEC)

Proposal for a

COUNCIL DECISION

amending Decision 89/45/EEC on a Community system for the rapid exchange of information on dangers arising from the use of consumer products

(presented by the Commission)

I. INTRODUCTION

The Commission has prepared this report in accordance with Article 8 of Decision 89/45/EEC of 21 December 1988 on a Community system for the rapid exchange of information on dangers arising from the use of consumer products. Decision 89/45/EEC is the successor to Council Decision 84/133/EEC which set up the System in March 1984, since which time there have been two reports on its working ¹.

II. DESCRIPTION OF HOW THE SYSTEMS FUNCTIONS

The Rapid Exchange System has functioned as a general short term surveillance and alarm system since 1984 and is designed to cope with cases of serious and immediate danger to consumers occurring when everyday products are either not manufactured to the required standard or are badly conceived in the first place.

Article 2 of the present Decision established that the system should cover all products intended for use by consumers except those intended exclusively for professional use and those which under other Community instruments are the subject of equivalent notification procedures.

The System has been operated by the Commission, in accordance with the detailed procedures approved by the Commission on 31.7.1985 as provided for under Article 4 of the Decision. Member States appoint contact points, consisting of persons from the food products sectors and the non-food sectors, who are responsible for transmitting and receiving notifications from the Commission. For the more efficient functioning of the system the Commission itself has a contact point for food products and a contact point for non-food products. The food network is managed by DG III and the non-food network is managed by the Consumer

1. Interim Report COM (86) 562 of 24.10.86
Report COM(88) 121 of 11.3.88

Policy Service. Whenever a Member State adopts a measure to prevent, restrict, or attach particular conditions to the marketing or use of consumer products because of the risks they pose to consumers, it must notify the appropriate Commission contact points. The Commission, in turn, transmits that information to the other Member States, in order that they may take appropriate action. All Member States must report to the Commission on the action they have taken. It is especially provided for under the Decision that, "whenever possible, the producer, distributor or importer of the product shall be consulted". Prior consultation is not only a valuable means of checking the available information but has also a preventive effect: producers and importers may voluntarily take action by recalling or withdrawing products when approached by the competent authorities even in cases in which the risk is not established to an extent that would allow action to be taken by Member States. Prior consultation also permits to avoid unnecessary conflict between producers or importers and the authorities.

The Informal Rapid Exchange System for foodstuffs has been in existence since 1978 and operates with the following variation in procedure.

- . A "red" telephone, that is a direct line installed in the relevant "Food-products" service at the Commission as well as a telex link are used by the contact point in each Member state to send information directly to the Commission. The Commission evaluates the information received and is able to automatically transmit the message received to the other contact points.

The way notifications are dealt with varies considerably between Member States, owing to differences in the responsibilities, powers and structures of the authorities responsible. However, in general terms, all Member States follow the following steps:

1. The contact point in the national authority designated under Article 5 (normally a Ministry) decides which other Ministry or Ministries are competent to deal with the notification. If there is no other body to accept the file, it is dealt with by the national authority itself (Belgium, Denmark, Greece).
2. A check on the market is then carried out to ascertain whether the product is on sale. In Portugal, enquiry is also made of the customs department to know if there is any record of the product being imported. In the case of certain countries (Belgium - for certain product areas - Greece, France, Ireland, Italy, Luxembourg, Netherlands, Portugal and United Kingdom) the national authority has at its disposal an Inspectorate which is able to make this check throughout the territory of the Member States.
3. If and when a notified product is found on sale, most countries have it tested for the reported danger in an official or officially approved laboratory. If the danger is confirmed, subsequent action depends on the legal powers available.
4. In certain countries (Denmark, Germany, Greece, Netherlands, Spain, France, Ireland, Italy, Luxembourg, Portugal and United Kingdom), any consumer product can be either temporarily blocked or banned as appropriate. In Belgium this power only extends to certain categories of products which causes problems when action needs to be taken concerning non-regulated products. In the Federal Republic of Germany the power to block has certain limitations concerning the withdrawal of products from shops.

Ninety-eight notifications were received since the last report in 1988 and a list of these notifications for the food and non-food sectors are attached to this report at annex II.

Coordination with Member States

The Consultative Committee which assists the Commission in the implementation and management of the System was created under the original Decision and was continued under the Decision 89/45/EEC. For several reasons this Committee has not met since July 18 1988. This was mainly due to discussions within the Commission's services on how to improve the system and the discussion on the revision of the detailed procedures. However in the future the Commission will ensure that this Committee meets on a frequent basis.

III. EQUIVALENT SYSTEMS

Article 2 of Decision 89/45/EEC provides for equivalent notification systems to be excluded. These comprise of pharmaceuticals, which come under Directives 75/319 and 81/851 and animals and animal products, to which Directive 82/894 applies.

In addition to the above, the following are now regarded as equivalent systems : Products of animal origin as far as they are covered by Directive 89/662/EEC, and the system for radiological emergencies which covers widespread contamination of products (Council Decision 87/600/EURATOM).

IV. EVALUATION

When the Council adopted the Decision 89/45/EEC continuing the System it invited the Commission to reexamine the system with a view to improving its operation if necessary.

It has been suggested that the present arrangement gives rise to duplication in the handling of notifications and to cases where the need for a strict checking of the criteria before the transmission of a

notification to Member States has not been respected. Identification of products by Member States receiving the notifications continued to be another problem.

1) The Avoidance of Duplication

Duplication can arise in two situations :

- a. Where the same product is reported to both DG III and the Consumer Service. However this is not seen as a major problem and has occurred in only two cases³.
- b. Where a particularly difficult or serious case is discussed in two or more committees, as happened with contaminated olive oil.

Each Commission network at present informs the other network of notifications received under the Rapid Exchange System. However, in order to solve the question of duplication of meetings the detailed procedures have been modified to allow the Commission to ensure that, whenever possible, in each case the discussions which take place in the different relevant committees will be carried out in a joint session of these committees. In those cases which fall within the scope of procedures and/or committees provided for by Community legislation governing specific products or product sectors, the latter shall be involved. When the Advisory Committee is not involved and no provisions are made for joint meetings, the contact points of the Member States will be informed of any exchange of views with other committees.

3. 1. Sugar confectionery animals, December 1988
2. Self-heating food containers, June 1988

2) Verification that the issue of a notification is appropriate

Such a verification is important because of the risk of unjustified economic repercussions. Obviously this risk occurs only where the product implicated originates in a country other than the notifying country.

The possibility of issuing a notification for a product which is not really a danger or no longer a danger could be eliminated by exhaustive enquiries and discussions. However, such a process conflicts with the need for the system to operate rapidly. The essential requirements of the System are two-fold :

- a) that the criteria of Article 1. (1) be respected;
- b) that the notifications be issued to Member States without unnecessary loss of time.

One solution to the problem of inappropriate notifications is to check the situation with the Member State in which the product originates. Thus when a notification is received by the Commission in respect of a product which originates in a Member State other than the notifying Member State, the Commission may, if it considers that there is prima facie compliance with the provisions of Articles 1 and 2, at the same time as issuing the notification to Member States, contact the country presumed to be the country of origin of the product to carry out the necessary verifications. Provisions are made in the detailed procedures to complement the information received from the Member States.

Theoretically, this procedure should minimise the risk of any unjustified economic repercussions in the country of origin. Naturally, non-Member States would not benefit from this safeguard.

3) Ease of Identification of Products

Another problem outlined in the previous report was that notifications received did not always contain sufficient information for the products to be easily identifiable on the market. This has not been completely resolved. The original intention was to use a very exhaustive list of information which was drawn up in 1985. This list was, however, never followed by the Member States as it was found to be impractical. Certain details cannot always be included e.g. when the product originates from a third country, it is not always possible to indicate the manufacturer and/or the importer. In the interests of speed the notification is then sent out without the missing detail. If the information subsequently becomes available it is then sent to the Member State separately. A photo of the product is faxed separately to the Member State when available. This was not specified in Article 1(2) of Decision 89/45/EEC but was subsequently undertaken by the Commission on its own initiative to help Member States identify the product.

I. CONCLUSIONS

The Commission considers that the System continues to function satisfactorily and that the System has proved its usefulness as a warning system.

By enabling dangerous products to be removed from the market the System has contributed to the prevention of accidents. Also by focusing attention on those products or categories of products which have been the subject of frequent measures in Member States it establishes a basis for preventive action, both at Member State and Community level.

Regarding the relationship between the food and non-food networks, the Commission believes that it is better for the two networks to continue to function separately, to allow the two types of products, which have nothing in common but the Decision, to be dealt with by staff who have the necessary expertise. However any problems arising from this independence could be resolved by having more precision in the detailed procedures and more coordination between the Services.

After lengthy discussion between the services concerned the Commission has come to the conclusion that Decision 89/45/EEC shall be extended, on the assumption that it will be abrogated at the moment of the entry into force of the General Product Safety Directive.

No important changes have been introduced but minor amendments are necessary to make the Decision operational. It is intended to align Article 7 of the Decision on the Advisory Committee with the general procedure for Advisory Committees foreseen in Council Decision 87/373/EEC and as it is now proposed to modify Decision 89/45/EEC, the same detailed procedures as for that decision will continue to apply, until amended by the Advisory Committee.

It will be in the context of the General Product Safety Directive that an overall solution can be found to the problems posed by the multiplicity of information procedures now in operation.

Annex I : proposal for a Council Decision modifying Decision
89/45/EEC

Annex II : list of notifications received since last report

Proposal for a
COUNCIL DECISION

amending Decision 89/45/EEC on a Community system for the rapid exchange
of information on dangers arising from the use of consumer products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and
in particular Article 235 thereof,

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

Having regard to the opinion of the European Parliament⁽²⁾,

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

Whereas Council Decision 89/45/EEC⁽⁴⁾ extended the system established by Council
Decision 84/133/EEC⁽⁵⁾ until 30 June 1990;

Whereas it is necessary to extend and amend Decision 89/45/EEC;

Whereas without prejudice to other Commission proposals on consumer safety in
particular, the Community system for the rapid exchange of information should
now be established, on the basis of experience acquired, for an unlimited
period;

Whereas, an advisory committee shall be set up, to which proposals for the
detailed procedures shall be referred, and which may be consulted on problems
concerning the administration of the system;

-
- (1) OJ No C 124, 11.5.1988, p. 9.
(2) OJ No C 235, 12.9.1988, p. 174.
(3) OJ No C 175, 4.7.1988, p. 11.
(4) OJ No L 17, 21.1.1989, p. 51.
(5) OJ No L 70, 13.3.1984, p. 16.

Whereas the Commission shall submit a report on the operation of the system at least every two years,

HAS ADOPTED THIS DECISION :

Article 1

Decision 89/45/EEC is amended as follows :

1. Article 4 is replaced by the following :

"Article 4

Detailed procedures for the transmission of the information referred to in Article 1 shall be adopted by the Commission following the procedure laid down in Article 7."

2. Article 7 is replaced by the following :

"Article 7

1. The Commission shall be assisted by a committee of an advisory nature, composed of two representatives per Member State and chaired by the representative of the Commission.
2. The committee may examine any problem relating to the implementation and administration of the information system which is referred to it by its chairman, either on his own initiative or at the request of a representative of a Member State.
3. The representative of the commission shall submit to the committee a draft of the measures to be taken or the text on which its opinion is requested. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

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

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

3. Article 8 is replaced by the following :

"Article 8

The Commission shall submit a report on the operation of the system at least every two years."

Article 2

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

Liste des sujets qui ont fait l'objet d'un échange rapide d'informations
depuis janvier 1988

List of subjects which have been dealt with by the rapid exchange of
information since January 1988

Cas alimentaires reçus jusqu'au 23 février 1990
Food cases received up to 23 February 1990

	<u>Cas en 1988</u> <u>Cases in 1988</u>	<u>Date reçue</u> <u>Date received</u>
3/88	Fromage avec moisi Cheddar with mould	16-02-1988
4/88	Huile d'olive contaminée par tetrachloroéthylène Olive oil contaminated with tetrachloroethylene	24-03-1988
5/88	Verres contenant plomb et cadmium Drinking glasses containing lead and cadmium	24-03-1988
6/88	Moules contenant Biotoxines Mussels containing Biotoxins	14-04-1988
7/88	Anchois en conserve l'huiles contaminées par tetrachloroéthylène Cans o fanchovies oil contaminated with tetrachloroethylene	14-04-1988
8/88	Pamplemousses contaminées Grapefruits contaminated	26-04-1988
9/88	Aliments lactes granules sans gluten pour nourissons. contaminées à "Salmonella Bredeney" Granulated gluten-free milk based products for infants contaminated with "Salmonella Bredeney"	29-04-1988

10/88	Echantillons de lait pasteurisé présence de substances "Inhibitrices" Samples of pasteurized milk presence of the substance "Inhibitrices"	02-05-1988
11/88	Emblème du pâté de Bruxelles contenant Salmonella Heidelberg Emblem Brussels pâté - containing Salmonella Heidelberg	20-05-1988
12/88	Conserves du bacon contaminés Canned bacon contaminated	25-05-1988
13/88	Emballage auto-chauffants de denrées alimentaires dangereuses Self-heating food-containers dangerous	06-06-1988
14/88	Menaces anti-Israéliennes d'une organisation inconnue agrumes empoisonnés Anti Israelian threats from an unknown organisation poisoned citrus fruits	09-06-1988
15/88	Mollusques vivants contenant le toxine PSP Live molluscs containing PSP toxin	02-08-1988
16/88	Veaux hormones Veal hormones	01-08-1988
17/88	Mollusque bivalves contaminées par Salmonella Molluscs contaminated with Salmonella	16-08-1988
18/88	Aliments des nourissions contenant Salmonella Thompson Infant ofrmulae containing Salmonella Thompson	18-08-1988
19/88	Oeufs cru contaminée par Salmonella Raw eggs contaminated by Salmonella	30-08-1988

20/88	Huiles et les moules contaminé par PSP Oysters and mussels contaminated with PSP	01-09-1988
21/88	Cola . contenant Trichloroéthylène. Cola containing Trichloroethylene	07-09-1988
22/88	Mayonnaise contaminée par des cristaux de sulfate Mayonnaise contaminated with cristalsulfate	20-09-1988
23/88	Vacherin mont d'or contaminé par Salmonella Vacherin mont d'or contaminated by Salmonella	04-11-1988
24/88	Asperges botulisme Asparagus botulisme	11-11-1988
25/88	Figues séches contaminée par Aflatoxine Dried figs contaminated by Aflatoxine	18-11-1988
26/88	Salami contaminé par Salmonella Salami contaminated by Salmonella	21-11-1988
27/88	Estomacs de porc congelés contaminé par Salmonella Frozen pork stomachs contaminated by Salmonella	09-12-1988
28/88	Anguille congelés Importation Frozen eels Importation	09-12-1988
29/88	Confiserie au sucre sous forme d'animal réalisées sur fil Sugarconfectionary in animal shape wire-mounted	10-12-1988
30/88	Queues de crevettes plomb Tails of prawns lead	10-12-88

31/88	Poisson avec Zoonose Fish with Zoonosis	29-12-1988
32/88	Sanglier trouves morts La pest porcine classique Wild boar found dead the classical swine fever <u>Cas en 1989</u> <u>Cases in 1989</u>	29-12-1988
1/89	Viande de porc Salmonella Fresh pork meat Salmonella	18-01-89
2/89	Lavignons PSP Scrobicularia plana PSP	31-01-1989
3/89	Poisson Zoonose Fish Zoonosis	03-02-1989
4/89	Conserves de crevettes de de crabe Présence d'EDTA (éthylène diamine tetra-acetate de calcium disodique) Canned prawns and canned crab presence of EDTA (calcium disodium ethylene diamine tetra acetate)	06-02-1989
5/89	Couteaux et Poulpes, conserves petits présence de cadmium razor-clams and octopus canned presence of cadmium	07-02-1989
6/89	Fromages du type "Camembert" bacterie Listeria Monocytogéne Cheeses of the type "Camembert" bacteria Listeria Monocytogene	17-02-1989

7/89	Mollusque bivalves sur les Littarol meridional toxines (PSP) Bivalves molluscs of the south Coast toxins (PSP)	28-02-1989
8/89	Mollusque bivalves toxines (PSP) Bivalves molluscs toxins (PSP)	14-03-1989
9/89	Fruits poisonés cyanide Poisoned fruit cyanide	14-03-1989
10/89	Vins contenant traces de verre Wines containing glass	31-03-1989
11/89	Poisson histamina Fish contaminated with hystamina	17-04-1989
12/89	Coquillages dinophysis Shellfish dinophysis	25-05-1989
13/89	Yaghourt aromatisée par noisette Botulism Yoghourt flavoured with hazelnut Botulism	13-06-1989
14/89	Champignons staphylocoques Mushrooms staphylococcal	13-06-1989
15/89	Mollusques vivants toxine PSP Live mussels PSP toxin	12-06-1989
16/89	Racines de bardane Belladone Roots of burdock Deadly nightshade	29-06-1989

17/89	Pâté Listeria monocytogènes Pâté Listeria monocytogenes	06-07-1989
18/89	Mix destiné à la production du glaces Salmonella enteritidis Base material used for the manufacture of ice cream Salmonella enteritidis	11-07-1989
19/89	Mollusque bivalves Algues toxiques du type "dinophysis" - Bivalves molluscs Toxic algae of the type "dinophysis"	29-07-1989
20/89	Mayonnaise Salmonella Mayonnaise Salmonella	22-08-1989
21/89	Sardines dans l'huile vegetable dépruvé Sardines in vegetable oil spoiled	18-09-1989
22/89	Lait caille de pois chinois mouillés Bacillus cereus Wet soybean curd with red rice and brine Bacillus cereus	18-09-1989
23/89	Pistaches fraîches Aflatoxines Pistachio nuts Aflatoxines	18-09-1989
24/89	Salami contaminé par Salmonella Salami contaminated by Salmonella	28-11-1989
25/89	Lapin surgelée residue de pesticides Rabbits frozen residue of pesticides	28-11-1989
26/89	Coquillages Salmonella Shell-fish Salmonella	15-12-1989
27/89	Fromage Listeria monocytogene Cheese Listeria monocytogene	15-12-1989

28/89	Fromage Salmonella DUBLIN Cheese Salmonella DUBLIN	15-12-1989
-------	---	------------

Cas en 1990
Cases in 1990

1/90	Poivre Ricinus communis Allspice Ricinus communis	18-01-1990
------	--	------------

2/90	eau mineral benzene mineral water benzene	16-02-1990
------	--	------------

3/90	Sardines histamines Sardines histamines	23-02-1990
------	--	------------

Cas non-alimentaires reçus jusqu'au 3 janvier 1990
Non-food cases received up to 3 January 1990

<u>Cas en 1988</u>		<u>Date reçue</u>
<u>Cases in 1988</u>		<u>Date received</u>
1/88	Jeu de patience (Labyrinthe) empoisonnement au mercure Toy maze Mercury poisoning	12-01-1988
2/88	Machine à café électrique choc électrique electric coffee maker electric shock	28-01-1988
3/88	Jouets gonflants en plastique occlusion intestinale en cas d'ingestion expanding toys made from hard plastic intestinal obstruction	11-02-1988
4/88	Crayons de cire (jouets) empoisonnement au plomb wax crayons lead poisoning	29-03-1988
5/88	Bougeoirs danger potentiel d'incendie candlesticks fire	30-03-1988
6/88	Lit-cage d'enfant danger d'étouffement ou de coupure child's cot strangulation or cuts	26-04-1988
7/88	Jouet 'Crazy Hand' étouffement Crazy Hand choking	13-05-1988
8/88	'Hotpot' récipient auto-chauffant pour aliments contamination des aliments self-heating food container food contamination	02-06-1988
9/88	Robot ménagère sectionnement des phalanges electric food mixer severing of fingers	06-07-1988
10/88	anneau dentaire (type de hochet) étouffement teething ring choking or suffocation	08-08-1988

11/88	araignée jouet risque d'avalement toy spider danger of swallowing	07-09-1988
12/88	pneus d'automobile 'Danubiana' désintégration avec la vitesse 'Danubiana' car tyres disintegration with speed	06-10-1988
13/88	préservatifs l'éclatement et la porosité prophylactics (condoms) puncturing and porosity	21-11-1988
14/88	confiserie en forme d'animaux produit tenu ensemble par des morceaux de fils de fer confectionery animals held together by pieces of wire	19-12-1988
15/88	lampe de table avec 'interrupteur' dimmer électrocution table lamp with dimmer switch electrocution	28-11-1988
16/88	boule décorative pour arbre de Noël isolation inadéquate, inflammable, peut facilement être ouvert, donnant accès aux éléments sous tension Christmas tree ball poor insulation, flammable, can be easily opened thus exposing live parts	13-12-1988
17/88	véhicule tout-terrain à trois roues capotage 3-wheel all-terrain motorised vehicles overturning	13-12-1988

Cas en 1989

Cases in 1989

1/89	lampe de table avec poupée choc électrique table lamp with doll electric shock	13- 01-1989
2/89	'autel' de la Sainte Vierge, gondole, tableau choc électrique Virgin Mary 'Altar', gondola, picture electric shock	28-02-1989

3/89	Grille-pain choc électrique toaster electric shock	15-02-1989
4/89	lampe-applique choc électrique wall-light electric shock	06-03-1989
5/89	porte-clé gadget ingestion ou inhalation de produits chimiques, brûlure de peau, feu novelty key ring ingestion or inhalation of toxic chemicals, burns, fire	08-03-1989
6/89	lampe de table halogène choc électrique halogen table lamp electric shock	28-06-1989
7/89	barre de gymnastique ne résiste pas au poids d'une personne de 75 kg ou plus exercise bar does not support weight of person over 75 kg	30-06-1989
8/89	luminaire pour ventilateur de plafond choc électrique light fitting for ceiling fan electric shock	12-07-1989
9/89	masque de plongée asphyxie - taux élevé de CO ₂ diving mask asphyxia - high level of CO ₂	10-08-1989
10/89	briquets ayant l'apparence de jouets peuvent provoquer brûlure ou incendie lighters designed to look like toys could cause burns or fires	22-08-1989
11/89	luminaire 'parachute' suspendu choc électrique Parachute lamp electric shock	02-10-1989
12/89	pneus du type remodelés 'Goldline' n'ont pas passé les tests effectués à des vitesses inférieures à leurs seuils 'S' (113mph/180ph) Goldline tyres when tested failed at speeds below 'S' rating (113mph/180ph)	02-11-1989

13/89	oeufs en chocolat avec un jouet à l'interieur - 'Kinder Surprise' étouffement chocolate egg containing toy - 'Kinder Surprise' choking	09-11-1989
14/89	Latex liquide, nouveauté pour la veille de la toussaint inhalation - nausée, vertige, problèmes respiratoires, peut être dangereux pour les yeux et la peau - liquid latex inhalation - nausea, dizziness, respiratory problems, could be dangerous to the eyes and skin	14-11-1989
15/89	appareil épilatoire électrique choc électrique electric depilatory apparatus electric shock	21-11-1989
16/89	cafetière électrique choc électrique electric coffee-maker electric shock	23-11-1989
17/89	poêle mobile (de chauffage) à pétrole lampant (kérosène) sans dispositif de sécurité intoxication par le monoxyde de carbone portable paraffin heater without safety device carbon monoxide poisoning	08-12-1989

Cas en 1990

Cases in 1990

1/90	cruches à eau en céramique empoisonnement au plomb ceramic water jugs lead poisoning	03-01-1990
------	---	------------

ISSN 0254-1475

COM(90) 172 final

DOCUMENTS

EN

05 15

Catalogue number : CB-CO-90-198-EN-C

ISBN 92-77-60052-7

Office for Official Publications of the European Communities
L-2985 Luxembourg