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O P I N I O N

of the Committee on Economic and Monetary Affairs and
Industrial Policy

for the Committee on the Environment, Public Health and
Consumer Protection

on the proposal from the Commission to the Council for a
directive amending for the seventh time Directive 67/548/EEC
on the approximation of the laws, regulations and administrative
provisions relating to the classification, packaging and
labelling of dangerous substances
(COM/89/575 final - C3-0047/90 - SYN 227)

Draftsman : Mr Bouke BEUMER

PE 141.305/fin./Ann.

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

* = Consultation procedure requiring a single reading

**II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**I = Cooperation procedure (first reading)

*** = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

OPINION

(Rule 120 of the Rules of Procedure)

of the Committee on Economic and Monetary Affairs and Industrial Policy

Draftsman: Bouke BEUMER

On 20 March 1990, the Committee on Economic and Monetary Affairs and Industrial Policy appointed Bouke BEUMER draftsman on the opinion.

The Committee considered the draft opinion at its meeting 25-27 September 1990 and adopted it unanimously.

The following took part in the vote: BEUMER (Chairman and Draftsman), CASSIDY, DE PICCOLI, FRIEDRICH, HERMAN, PINXTEN, READ, ROUMELIOTIS, SBOARINA, SISO CRUELLAS, TITLEY, TRIVELLI.

At its meeting of 25-27 September 1990 the Committee on Economic and Monetary Affairs and Industrial Policy considered the proposal for a Council Directive amending for the seventh time Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances.

The Committee endorses the main objective of the legislation concerning protection of man and the environment. The present proposal modifies the sixth amendment which has been in force for over 10 years. The aim of the sixth amendment was to introduce a harmonized Community scheme to ensure that differences in national procedures did not constitute a barrier to trade while at the same time ensuring a high level of protection.

The Committee on Economic and Monetary Affairs and Industrial Policy does not want to go into a discussion about the details of the requirements of notification and the procedures connected hereto but is basically concerned about the importance of the legislation for the internal market and the impact of industry and its competitiveness.

The new proposal foresees in general terms a continuation of the requirements included in the sixth amendment (i.e. classification, packaging and labelling and notification of new substances). It does, however, impose some new obligations on industry. The proposed amendment will, as does the sixth modification, affect all of the industry irrespective of the size of the companies. The Commission notes that there are no special measures in respect of small and medium-sized enterprises.

Under the sixth amendment only substances marketed in the Community in quantities greater than one ton per year can circulate freely in all Member States if the notification procedures have been fulfilled in one Member State. Substances in quantities less than one ton must be notified in each Member State where it is marketed. The individual Member States have imposed divergent conditions concerning the notification thus creating different market conditions for industry. This situation is not consistent with the idea of the great internal market. The new proposal ensures free circulation also for these substances. Companies doing business locally in a country where the requirements are very few will find themselves in a situation where the obligations of the seventh amendment constitute an additional burden (even if the requirements are fewer and easier to overcome than those for substances marketed in quantities greater than one ton). The need to achieve the completion of the internal market must have priority. On the other hand, the Community schemes in favour of small and medium-sized enterprises must be adapted in such a way as to help local companies affected by this legislation to take full advantage of the internal market opportunities.

Notification and control procedures unavoidably raise the question of confidentiality. Industry needs respect of business secrecy to ensure innovation and fair competition; the first notifier has a legitimate expectation to a market advantage. Legislation must make sure that a balance is struck between the divergent interests. The solution chosen by the Commission in the present proposal seems to be the only possible one.

The Committee would support any attempt to ensure in the framework of this directive that the provisions of the directive apply to all dangerous substances which are exported outside the Community. This should be made clear also if this problem is regulated elsewhere. It is also important that the new

provisions offer equal treatment to Community producers and producers outside the Community.

The attention of the Committee on Economic and Monetary Affairs and Industrial Policy has been drawn to a specific problem, namely whether flavourings should be covered by the seventh amendment or not.

In its explanatory note, the Commission states that the seventh amendment maintains the same philosophy as that of the sixth amendment. Foodstuffs including food additives and flavourings are exempt from the sixth amendment and manufacturers are thus exempt from the requirements for free marketing notification and from the obligation to register substances. The proposal for the seventh amendment makes two exemptions for foodstuffs concerning the application of the requirements contained herein: firstly, according to article 1, paragraph 2, litra c), the directive does not apply to provisions relating to 'foodstuffs, in the finished state, intended for the final user'. Ex-contrario, unfinished and semi-finished 'foodstuffs', including additives and flavourings, are subject to all requirements of the seventh amendment. Secondly, 'substances used exclusively as additives in foodstuffs as covered by Directive 89/107/EEC' are exempted from the notification requirements, see article 8. The 'food additives Directive 89/107/EEC' does not apply to flavourings as it was considered more practical to regulate these in a separate directive; such a directive was adopted as Directive 88/388/EEC. The result is with the present wording of the proposal that flavourings will be subject to the notification procedure and all other additives will be exempt. This is beyond doubt an unintended disparity treatment of the substances and the Committee on Economic and Monetary Affairs and Industrial Policy would therefore request the Committee responsible to adopt the following amendment:

Commission text

Amended text

Article 8, paragraph 1

Article 8, paragraph 1

The following substances are exempted from the provisions of Articles 6, 7, 9 and 10:

The following substances are exempted from the provisions of Articles 6, 7, 9 and 10:

- substances which appear in the inventory referred to in Article 16,

- unchanged

- from the date of entry into force of Directive ../.../EEC "on the placing of plant protection products on the market" to active substances intended for exclusive use in such products and as covered by the above Directive,

- unchanged

- additives and substances for exclusive use in animal feeding-stuffs as covered by Directive 70/524/EEC and by Directive 82/471/EEC,

- unchanged

- substances used exclusively as

- substances used exclusively as

additives in foodstuffs as covered
by Directive 89/107/EEC.

additives in foodstuffs as covered
by Directive 89/197/EEC and
substances used as flavourings in
foodstuffs falling within the scope
of Directive 88/388/EEC

Finally, the Committee notes that the Commission at the end of the impact assessment sheet laconically rejects the concerns of industry as ill-founded. The Commission must follow closely together with industry the impact of this legislation on industry's costs and competitiveness in order to make the necessary adjustments.

With these remarks and subject to the above amendment the Committee on Economic and Monetary Affairs and Industrial Policy delivers a favourable opinion on the Commission proposal.