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DOCUMENT 343/75

Report

drawn up on behalf of the Committee on Economic and Monetary Affairs

on the proposals from the Commission of the European Communities to the
Council for the ~~elimination~~ of technical barriers to trade in
goods

- in particular the proposals for directives
on the approximation of the laws of the Member States relating
to
 - taximeters (Doc. 198/75)
 - lifting and mechanical handling appliances and electrically operated lifts
(Doc. 214/75)
 - fruit jams, jellies and marmalades, and chestnut purée (Doc. 235/75)

Rapporteur: Mr K. MITTERDORFER

By letters of 15 July, 29 July and 28 August 1975, the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposals from the Commission of the European Communities to the Council for directives on the approximation of the laws of the Member States relating to

- taximeters (Doc. 198/75)
- lifting and mechanical handling appliances and electrically operated lifts (Doc. 214/75)
- fruit jams, jellies and marmalades, and chestnut purée (Doc. 235/75).

The President of the European Parliament referred these proposals to the Committee on Economic and Monetary Affairs as the committee responsible. The Legal Affairs Committee was asked for its opinion on Documents 198/75 and 214/75, and the Committee on Public Health and the Environment for its opinion on Document 235/75.

It considered these proposals at its meetings of 15 and 16 September and 20 and 21 October 1975. At its meeting of 21 October 1975 it unanimously adopted the motion for a resolution and explanatory statement.

On 16 September 1975, the Committee on Economic and Monetary Affairs appointed Mr Mitterdorfer rapporteur and instructed him to submit in addition, as part of his duties, the opinion for the Committee on Public Health and the Environment on the proposals for directives on paints, varnishes, adhesives and similar products (Doc. 196/75) and waste from the titanium dioxide industry (Doc. 213/75) - Approximation of laws to eliminate technical barriers to trade.

Present: Mr Notenboom, vice-chairman and acting chairman; Sir Brandon Rhys Williams, vice-chairman; Mr Mitterdorfer, rapporteur; Mr Achenbach, Mr Albertsen, Mr Artzinger, Mr Cousté, Mr Delmotte, Mr Flämig (deputizing for Mr Lange), Lord Gordon Walker, Mr Normanton (deputizing for Mr Dykes), Mr Prescott, Mr Scholten, Mr Schwörer and Mr Suck.

The opinions of the Legal Affairs Committee are attached.

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposals from the Commission of the European Communities to the Council for the elimination of technical trade barriers, namely

- for directives on the approximation of the laws of the Member States on
 - taximeters,
 - lifting and mechanical handling appliances and electrically operated lifts,
 - fruit jams, jellies and marmalades, and chestnut purée;

The European Parliament,

- having regard to the proposals from the Commission of the European Communities¹,
- having been consulted by the Council pursuant to Article 100 of the EEC Treaty,
- having regard to its Resolution of 12 December 1974 on the elimination of technical trade barriers²,
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Legal Affairs Committee (Doc. 343/75),

¹ OJ No. C 168, 25.7.1975, p.8, COM(75) 336 fin.,
OJ No. C 202, 4.9.1975, p.2

² OJ No. C5, 8.1.1975

1. Stresses that, if further delays in the elimination of technical trade barriers are to be avoided, a more streamlined procedure is required which at the same time ensures effective intervention and control by the Community Institutions;
2. Refers in principle to its earlier proposals¹, in particular those concerning procedure, requiring the Commission to submit systematically outline directives in accordance with Article 100 of the EEC Treaty for the individual sectors defined in action programmes and, pursuant to Article 155 of the EEC Treaty, to lay down on its own responsibility provisions for their implementation;
3. **Requests the Commission to incorporate the following amendments in its proposals, pursuant to Article 149, second paragraph, of the EEC Treaty;**
4. Approves the proposals in question, subject to the reservations it has made.

¹ OJ No. C 5 , 8.1.1975

Proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to common provisions for lifting and mechanical handling appliances

Articles 1 and 2: unchanged

Article 3

No Member State may prevent, prohibit or restrict the placing on the market, use or entry into service, for a purpose for which it is designed, of any lifting or mechanical handling appliance or component thereof, on grounds relating to its construction or to its inspection, examination and testing, as defined and specified in this Directive, if, in accordance with the requirements specified in the relevant separate directive:

1. for a lifting or mechanical handling device subject to EEC type-approval of a component subject to EEC component type-approval, the appliance or component conforms to the respective model or type;

No Member State may prevent, prohibit or restrict the importation, placing on the market, use or entry into service, for a purpose for which it is designed, of any lifting or mechanical handling appliance or component thereof, on grounds relating to its construction or to its inspection, examination and testing, as defined and specified in this Directive, if, in accordance with the requirements specified in the relevant separate directive:

1. unchanged

¹ For full text, see COM(75) 336/fin.

2. for a lifting or mechanical handling appliance not subject to EEC type-approval and a component not subject to EEC component type-approval, the appliance or component conforms to the requirements of the relevant separate directives and is accompanied by a certificate of conformity if required by the corresponding directives.

2. unchanged

Articles 4 to 23: unchanged

Article 24

1. Member States shall put into force the laws, regulations and administrative provisions needed in order to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.

1. unchanged

2. Member States shall communicate to the Commission the text of provisions of national law which they adopt in the field covered by this Directive.

2. Member States shall communicate to the Commission the text of provisions of national law which they adopt or intend to adopt in the field covered by this Directive.

Article 25: unchanged.

¹ For full text see COM(75) 336 final

Proposal from the Commission of the European Communities
to the Council for a directive on the approximation of
the laws of the Member States relating to electrically
operated lifts

Preamble and Articles 1-5: unchanged

Article 6

1. The Member States shall put into
force the laws, regulations and
administrative provisions needed
in order to comply with this
Directive within eighteen months
of its notification and shall
forthwith inform the Commission
thereof.

1. unchanged.

2. Member States shall communicate
to the Commission the text of the
provisions of national law which
they adopt in the field covered by
this Directive.

2. Member States shall communicate
to the Commission the text of the
provisions of national law which
they adopt or intend to adopt in
the field covered by this
Directive.

Article 7: unchanged

¹ For full text, see COM(75) 336 final

EXPLANATORY STATEMENTI. Procedure

1. The Committee on Economic and Monetary Affairs notes with regret that its proposals concerning a change in the procedure for dealing with the proposals for elimination of technical trade barriers have so far yielded no results whatsoever¹. According to the above proposals, the Commission's proposals should be based on action programmes to eliminate technical trade barriers, in which the basic principles were defined and which should have a legally binding form. For the individual sectors defined in such action programmes, the Commission should systematically propose outline directives pursuant to Article 100 and, pursuant to Article 155, lay down on its own responsibility provisions for their implementation.

2. Moreover, there is as yet no sign of the various proposals being submitted sector by sector, with the outline directive and the various implementing provisions being submitted in one group, which would make it possible to deal more rationally with the proposals. Once again we are obliged to examine proposals relating to goods from the most widely divergent sectors. The Committee on Economic and Monetary Affairs therefore hopes that this situation will change in the near future.

II. Delays in the submission of proposals

3. An action to achieve harmonization in these various sectors was already envisaged in the general programme for the elimination of technical trade barriers of 1969 and in the Resolution on industrial policy of December 1973. The resolution on industrial policy called for the submission by the Commission of a proposal for a directive on paints and varnishes and on lifting and mechanical handling appliances before 1 January 1975, so that the directive might be adopted before 1 January 1976. This deadline was not respected. The proposal concerning fruit jams, marmalades, jellies and chestnut puree should have been approved by the Council before 1 January 1975. On the proposal on taximeters, however, the Commission did not exceed the time-limit of 1 January 1976 for submitting a proposal.

¹ Doc. 323/74/corr.

111. Harmonization system

4. The harmonization system chosen for lifting and mechanical handling appliances, lifts and taximeters is that of optional harmonization. This form of harmonization does not ensure the free movement of goods. If a Member State's legislation is fairly liberal, it is possible to market there at competitive prices goods which satisfy European standards, which in this case are stricter than national standards.

As regards fruit jams, marmalades and jellies and chestnut puree, the Commission proposes the partial harmonization system, which means that Member States' laws relating to the products which come under a directive must be fully aligned, but that national regulations may continue to apply to products which do not come under the directive, with a view in particular to expanding the production range offered. In the interests of health protection, however, an attempt should be made at a later stage to introduce total harmonization.

For paints, varnishes, adhesives and similar materials, the Commission has chosen the system of total harmonization with a view to protecting the life and health of the consumer.

IV. Observations concerning the various proposals

(a) Taximeters (Doc. 198/75)

5. This directive corresponds to the general procedures laid down in the Council Directive of 26 July 1971 concerning EEC type approval and EEC calibration. Apart from the remark made above concerning optional harmonization, this proposal does not call for any further observations.

(b) Lifting and mechanical handling appliances (Doc. 214/75)

6. This is an outline directive; the regulations concerning the application of this directive for the various categories of lifting appliances must be laid down in separate directives. The proposal makes provision for procedures with regard to EEC type approval, EEC component type approval and EEC inspection. The mutual recognition of the tests required to protect the consumer, for which appropriate provisions are made in the proposal, is necessary if the free movement of these goods is not to be impeded by multiple checks.

Adaptation to technical progress is provided for in the 'Lifting Equipment' committee set up in 1973.

The proposal contains a safeguard clause to cover the possibility that an appliance might constitute a risk even though satisfying the requirements laid down.

The Committee on Economic and Monetary Affairs decided at its meeting of 21 October 1975 to adopt the amendments proposed by the Legal Affairs Committee.

(c) Electrically operated lifts (Doc. 214/75)

7. Electrically operated lifts were selected as the first sector for implementation of the outline directive. In this sector, lack of harmonization represents a real obstacle to trade. Undertakings operating in this field are geared to an international market. Having to adapt their production to different national technical regulations means a considerable increase in cost, ranging from 8 to 10%. In view of these considerations, the Committee on Economic and Monetary Affairs hopes that the Council will adopt this proposal as soon as possible.

The technical annexes to the proposal are based on the draft standards of the CEN (European Committee for Standardization). In order to improve the competitiveness of European undertakings on as wide as possible an international market, it is essential that the technical standards laid down should not be confined to the Community market; where possible, uniform technical standards on a broader international level should be aimed at.

(d) Fruit jams, marmalades and jellies, and chestnut puree (Doc. 235/75)

8. The Commission submitted its first proposal for a directive in this field as far back as 1965. The accession of the three new Member States, where production and consumption habits sometimes differ considerably from those in the original Member States, and the activities at international level on foodstuffs legislation prompted the Commission to submit a new proposal. The Committee on Economic and Monetary Affairs is pleased to note that the Commission has proposed to the Council that the European Parliament should be consulted again since the amended proposal differs appreciably from the original one.

The purpose of the proposal is not only to bring about the free movement of goods within the Community by removing technical barriers to trade, but also to facilitate the activities of the Codex Alimentarius (Joint FAO/WHO programme on standards for foodstuffs). The latter aim is particularly important, since international uniformity will facilitate and promote world trade in these goods.

The labelling regulations have been given an important place in the proposal. This is indeed a most important aspect with a view to adequately protecting and informing the consumer. To this end, care should be taken that the decisions adopted by the Council in this field are passed on and explained fully to the consumer by systematic cooperation with national consumer organizations.

(e) Paints, varnishes, adhesives and similar products (Doc. 196/75)

9. The first general directive on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances was adopted by the Council on 27 June 1967. This directive was later amended by the Council Directive of 21 May 1973, which lays down to what extent and in what manner the approximation of national laws relating to dangerous substances and preparations is to be effected in the future. With regard to preparations, the Council has already adopted a directive, and the Commission has already submitted a proposal concerning pesticides. The present proposal concerns paints, varnishes, adhesives and similar products. The system of total harmonization was chosen with a view to protecting the life and health of the consumer. The proposal contains a safeguard clause to prevent the marketing of goods which comply with the regulations yet nevertheless constitute a danger to health or safety.

(f) Waste from the titanium dioxide industry (Doc. 213/75)

10. This proposal, which is based on the principles laid down in the action programme on the environment, will affect the competitiveness of undertakings in the various Member States.

The continued absence of standard rules on the production and disposal of these waste substances is responsible for a distortion of competition in the Community, resulting from divergent legislation.

In view of these considerations, the Committee on Economic and Monetary Affairs cannot but approve this proposal aimed at harmonizing legislation on waste from the titanium dioxide industry, since it will eliminate the current distortion of competition. The committee therefore hopes that the Council will adopt the proposal as soon as possible.

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Letter from the chairman of the Committee to Mr LEENHARDT, chairman of the Committee on Economic and Monetary Affairs

Luxembourg, 17 September 1975

Dear Mr Chairman,

At its meeting of 15 September last, the Legal Affairs Committee considered and unanimously approved¹ the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to taximeters², which the President of the European Parliament had submitted to the committee by letter of 23 July 1975 from Parliament's Secretary-General, asking for its opinion.

The Legal Affairs Committee noted that the proposal for a directive formed part of the provisions laid down in the Council directive of 26 July 1971 on the approximation of the laws of the Member States relating to common provisions for both measuring instruments and methods of metrological control³ and, in particular, Article 1(4), dealing with the procedures for EEC type-approval and EEC initial verification.

The Legal Affairs Committee approved the procedure followed by the Commission in basing the proposal for a directive on Article 100 of the EEC Treaty, considering that this Article provides an appropriate legal basis for the objective in question.

The Legal Affairs Committee is gratified at the fact that in Article 4, the Commission of the European Communities included the formula proposed by the Legal Affairs Committee in respect of a previous proposal for a directive on the approximation of the laws of the Member States⁴.

With regard to the other articles, the Legal Affairs Committee took the view, after due consideration, that the proposal for a directive gave rise to no particular problems of a legal nature.

(sgd.) Sir Derek WALKER-SMITH

¹ Present when the vote was taken:

Sir Derek Walker-Smith, chairman; Mr Bermani, Mr Broeks, Mr Calewaert, Mr D'Angelosante, Mr De Keersmaecker, Mr Lautenschlager, Mr Santer, Mr Shaw and Mr Vernaschi.

² OJ No. C 168, 25.7.1975, p.8

³ OJ No. L 202, 6.9.1971, p.1

⁴ Doc. 323/74, p.8

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Letter from the vice-chairman of the committee to Mr LEENHARDT, chairman of
the Committee on Economic and Monetary Affairs

Brussels, 30 September 1975

Dear Mr Chairman,

At its meeting of 30 September 1975, the Legal Affairs Committee¹
considered and unanimously approved the proposals for directives on the
harmonization of the laws of the Member States relating to

(a) common provisions for lifting and mechanical handling
appliances

(b) electrically operated lifts

(Doc. 214/75)

submitted by the Commission to the Council.

The sector of lifting and mechanical handling appliances is included
in the third stage of the 'General programme for the elimination of
technical barriers to trade which result from disparities between the
provisions laid down by law, regulation or administrative action in
Member States', adopted by the Council on 29 May 1969².

The first of the two proposals is a proposal for an outline directive
which, under the terms of the Council's resolution of 17 December 1973 on
industrial policy³, should be adopted by the Council before 1 January 1976.

¹ Present: Mr Brugger, vice-chairman and acting chairman; Mr Bayerl,
Sir Geoffrey de Freitas, Mr Memmel, Mr Rivierez, Mr Santer, Mr Schwabe
(deputizing for Mr Schmidt), Mr Schwörer, Mr Shaw, Mr Vernaschi.

² OJ No. C76, 17.6.1969.

³ OJ No. C117, 31.12.1973.

For this purpose, it should have been forwarded to the Council before 1 January 1975. However, the importance and technical complexity of the directive on electrically operated lifts, the first separate directive to be adopted under the general directive, obliged the Commission to delay slightly the forwarding of its proposal.

Article 100 of the EEC Treaty is the correct legal basis for the two proposals for directives, which provide for 'optional' harmonization.

Since the two proposals essentially deal with highly technical problems, the Legal Affairs Committee will confine itself to making the following remarks:

- (a) Since, as stated in the explanatory memorandum, the market for many of these appliances is highly internationalized, Article 3 of the proposal for a general directive might usefully provide that:

'No Member State may prevent, prohibit or restrict the importation, placing on the market, use or entry into service, for a purpose for which it is designed, ...';

- (b) In Article 24(2) of the general directive and Article 6(2) of the separate directive, it should be provided, so that the Commission may be informed at all stages of the drawing up of legislation and may formulate remarks on draft legislation, that:

'Member States shall communicate to the Commission the text of provisions of national law which they adopt or intend to adopt in the field covered by this Directive.'

This provision would be in keeping with the text which the Commission itself included in its proposal for a directive on the harmonization of the laws of the Member States relating to taximeters (Doc. 198/75), on which the Legal Affairs Committee adopted an opinion (PE 41.613) at its meeting of 15 September 1975 for your committee.

(sgd.) Peter BRUGGER