

PRESS RELEASE

9586/89 (Presse 195)

1361st Council meeting

- CONSUMER AFFAIRS -

Brussels, 9 November 1989

President: Mrs Véronique NEIERTZ  
State Secretary for Consumer Affairs,  
attached to the Ministre d'Etat,  
Minister for Economic and  
Financial Affairs and the Budget  
of the French Republic

9.XI.1989

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Willy CLAES Deputy Prime Minister, Minister for Economic Affairs, Planning and Educational Reform

Denmark:

Mr Nils WILHJELM Minister for Industry

Germany:

Mr Otto SCHLECHT State Secretary, Federal Ministry of Economic Affairs

Greece:

Mr Haris CARABARBOUNIS Deputy Permanent Representative

Spain:

Mr Julian GARCIA VARGAS Minister for Health and Consumer Affairs

France:

Mrs Véronique NEIERTZ State Secretary for Consumer Affairs, attached to the Ministre d'Etat, Minister for Economic and Financial Affairs and the Budget

Ireland:

Mr Terry LEYDEN State Secretary, Department of Industry and Commerce

Italy:

Mr Adolfo BATTAGLIA

Minister for Industry

Mr CASTAGNETTI

State Under-Secretary,  
Ministry of Industry

Luxembourg:

Mr Thierry STOLL

Deputy Permanent Representative

Netherlands:

Mr DE BOER

Duirector-General  
Ministry of the Economy

Portugal:

Mr MACARIO CORREIA

State Secretary for the Environment and  
Natural Resources

United Kingdom:

Mr Eric FORTH

Parliamentary Under-Secretary of State,  
Department of Trade and Industry  
(Industry and Consumer Affairs)

Commission:

Mr Karel VAN MIERT

Member

GENERAL PRODUCT SAFETY

The Council held a policy discussion on the proposal for a Directive on general product safety, the Opinions of the European Parliament and the Economic and Social Committee on which are awaited.

The purpose of this proposal is to introduce at Community level a general obligation to produce and market only safe products. It comes under the relaunch of the policy for the protection of consumers and the completion of the Internal Market.

In the course of the discussion the following topics were covered:

- scope, in particular the possibility of limiting it to consumer products in the broad sense;
- connections between the proposal and existing, more specific rules, in view of the need to avoid not only duplication but also lacunae;
- procedures for exchange of information between Member States and the Commission and problems relating to the introduction of a system for Community action as proposed by the Commission.

The Council instructed the Permanent Representatives Committee to continue its proceedings to enable it to act at the earliest opportunity.

PACKAGE TRAVEL

The Council discussed the draft Directive on package travel, including package holidays and package tours, which is intended to protect the interests of consumers of inclusive-price (package) travel.

It was established that significant progress had been made on three key points, namely the definition of a package, the liability of the organizer and the guarantees that an organizer must provide.

The Council instructed the Permanent Representatives Committee to resolve the questions still outstanding so that the Council meeting (Internal Market) on 21 December next could adopt a common position on the Directive.

CONSUMER REPRESENTATION AT COMMUNITY LEVEL

Mr VAN MIERT, Member of the Commission, made an oral communication on consumer representation at Community level, on which the Commission will shortly take a formal decision.

The Council took note of that communication, which was favourably received by delegations.

FUTURE PRIORITIES FOR RELAUNCHING THE POLICY FOR THE PROTECTION  
AND PROMOTION OF CONSUMER INTERESTS

The Council adopted the following Resolution:

"COUNCIL RESOLUTION

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,

Whereas the improvement of the quality of life implies, inter alia, protecting the health, safety and economic interests of consumers and informing and educating them;

Whereas achievement of this objective requires a consumer protection and information policy to be implemented at Community level;

Whereas in response to this need two Community action programmes for consumers were adopted in 1975 and 1981;

Whereas, in the light of the results obtained in implementing these programmes, it was necessary to give fresh impetus to this Community policy and to redefine its objectives and priorities through the adoption by the Council of the Resolution of 23 June 1986 concerning the future orientation of the policy of the European Economic Community for the protection and promotion of consumer interests;

Whereas the content of such objectives must be expressed by the effective protection of consumers' individual and collective interests;

Whereas such effective protection may in some cases require harmonization measures designed to prevent obstacles to the proper functioning of the internal market;

Whereas Article 100a of the Treaty provides for the adoption of harmonization measures which have as their object the establishment and functioning of the internal market and requires that the Commission, in its proposals, provided for in paragraph 1 of that Article, concerning consumer protection, take as a base a high level of protection, to ensure consumer confidence in the functioning of the market;

Whereas this linking of consumer protection policy to the effective completion of the internal market presupposes a review and update of the objectives of that policy, with the emphasis being placed on measures which should produce tangible results in the short term;

Whereas proceedings concerning the internal market should also move towards liberalization of trade and increased competition, which should likewise benefit the consumer; whereas the measures taken by the Community to protect consumers must be consistent with the Council Resolution of 30 June 1988;

Whereas the conclusions of the European Council of December 1985 underline the importance of promoting alternative approaches to the introduction of rules when such approaches afford real possibilities of making significant progress;

Whereas the Council Resolution of 23 June 1986 notes that the Commission intends to carry out a wide consultation of appropriate interests, particularly at the preparatory stage of its proposals;

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Whereas greater attention must be paid to consumer interests in other Community policies which requires, inter alia, a deep knowledge of the impact of the internal market on the consumer;

Whereas the representation of consumers at Community level should be improved to ensure a balance between the interests of producers and consumers;

Whereas it is important to promote safety and better information on the quality of products and services; whereas, therefore, in the spirit of the Council Resolution of 25 June 1987 on consumer safety, the Commission proposed that the Council adopt a Directive implementing the general principle of the obligation to provide goods which are safe, without prejudice to the continuation of work connected with the "new approach" to technical harmonization and standards approved by the Council Resolution of 7 May 1985;

Whereas the possibility should be considered of coupling the declaration of rights for consumers and the completion of an internal market in which trade between Member States will be intensified with certain judicial and extra-judicial measures,

CALLS UPON the Commission when carrying out its work to give priority to the areas referred to in the Annex to this Resolution, which are considered to be particularly sensitive for consumers, and, having regard to those priorities, to present before 31 December 1989 a three-year plan concerning the Community's objectives in its policy for the protection and promotion of consumer interests.



PRIORITIES FOR RELAUNCHING THE POLICY  
FOR THE PROTECTION AND PROMOTION  
OF CONSUMER INTERESTS

1. Integrating the policy for the protection and promotion of consumer interests into the other common policies through:
  - an overall study of the consequences of the internal market for the consumer, highlighting which specific sectors most affect consumer interests;
  - preparation of an adequate impact assessment for those proposals which are particularly sensitive for consumers.
  
2. Improving consumer representation at Community level, by studying various possible ways of promoting:
  - participation by the associations in the various Member States in the system of consumer representation, and
  - the exchange of ideas with representatives of economic sectors and of employers;
  - optimum implementation of the Council Resolution of 4 November 1988 on the improvement of consumer involvement in standardization, since such an improvement will contribute, inter alia, to the achievement of the aims of this Resolution and in particular those set out in point 1.
  
3. Promoting the general safety of goods and services and better information on the quality of goods and services by:

- looking into the possible implementation at Community level of means of promoting the safety of services;
  
- ensuring optimum operation of:
  - . the Community system of information on accidents involving consumer products (EHLASS),
  
  - . the Community system for the rapid exchange of information on dangers arising from the use of consumer products set up by Decisions 84/103/EEC and 89/45/EEC;
  
- encouraging campaigns which lead to greater safety of products, in particular of products which may be used by children or which may affect them;
  
- harmonizing the different Member States' monitoring systems with regard to foodstuffs and looking into the possibility of harmonizing monitoring systems for other products;
  
- seeking a Community framework for providing information on products, including foodstuffs, by means of labelling, ancillary materials and distinctive marks to aid consumers in making informed choices and to prevent misleading claims and unfair competition;
  
- studying common criteria to be applied for the conduct of comparative tests and analyses of goods and services and for the dissemination of the results thereof and promoting the carrying-out of such tests and analyses;

- agreeing on an overall approach for establishing a common framework in the field of tests and certification (assessment of compliance) for securing the principle of mutual recognition in accordance with the "new approach to technical harmonization and standards" in the 1985 White Paper on the completion of the internal market.
4. Without prejudice to national provisions on the subject, encouraging Member States to promote access to legal redress and, to this end:
- completing the studies described in point 7 of the Council Resolution of 25 June 1987, without prejudice as to whether group actions should be allowed;
  - encouraging Member States to seek judicial and extra-judicial systems to ensure that minor disputes between consumers and suppliers of goods and services are speedily and effectively resolved;
  - studying, together with the Member States, the feasibility of a system for the exchange of information to promote access to the legal system of another Member State in minor disputes involving more than one country.
5. Bringing to a conclusion, in consultation with national experts and in accordance with the criteria set by the Council Resolution of 23 June 1986:
- the work already begun at the Commission, including a proposal for a Directive concerning unfair terms in contracts and the report on general consumer information policy;
  - the study, as part of the three-year plan and taking account of the 1992 target, of other possible initiatives, particularly in the areas of

consumer education, new technologies involving teleshopping, guarantees and after-sales service and unfair advertising."

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The Council also took note of the Commission's intention of submitting its three-year programme to the Council at the Council's next meeting on consumer affairs.

#### ACCIDENTS INVOLVING CONSUMER PRODUCTS

The Council took note of the Commission's intention of forwarding to it in the very near future a proposal for a Decision amending Decision 86/138/EEC on a demonstration project with a view to introducing a Community system of information on accidents involving consumer products (EHLASS system - "European Home and Leisure Accident Surveillance System"), establishing inter alia the budget for the next two operating years.

The Council instructed the Permanent Representatives Committee to begin the proceedings at an early date so that the Council could take a decision before the end of the year, if the European Parliament's Opinion is available.



Bruxelles, le 8 novembre 1989

Note BIO(89) 326 aux bureaux nationaux  
cc. aux membres du Service du Porte-Parole

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Préparation Conseil Consommateurs du 9.11.1989 (E. Reuter)  
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Le Conseil Consommateurs se réunira demain sous la présidence de Mme Véronique Nelertz, Secrétaire d'Etat au Ministère des Finances chargée de la politique de consommation. Parmi les points à l'ordre du jour, deux sujets retiennent l'attention :

#### Voyages à forfait

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Le Conseil devrait être en mesure de parvenir à un accord sur les termes de la directive sur les voyages à forfait. Il s'agit d'une proposition de la Commission faite en mars 1988 et modifiée en juillet 1989 pour tenir compte des amendements proposés par le Parlement Européen. Cette proposition vise à harmoniser les lois et pratiques des Etats membres dans le domaine des voyages à forfait et à instaurer, sur le plan européen, de véritables garanties pour les consommateurs dans leurs relations contractuelles avec les tours operators.

Les points essentiels encore en discussion concernent la définition du voyage à forfait qui devrait se résumer à toute prestation, transport, hébergement, ou autres services touristiques vendus par l'organisateur ou l'agence de voyage. Le point important ici est que cette définition est une définition vaste et que la directive peut s'appliquer à des prestations qui ne comportent pas nécessairement un élément de transport.

En ce qui concerne la responsabilité contractuelle de l'organisateur, la directive permettra, en cas d'inexécution ou de mauvaise exécution du contrat, c'est-à-dire lorsque le consommateur n'est pas satisfait, d'obtenir réparation sauf si l'organisateur peut prouver un manquement imputable au consommateur, un manquement imputable à un tiers étranger du contrat ou un cas de force majeure. D'autre part, le contrat de voyage ne peut pas contenir de clause dérogeant à cette responsabilité.

Enfin, en ce qui concerne les garanties financières des organisateurs de voyages pour faire face à leur responsabilité, la Commission avait proposé l'assurance obligatoire pour l'organisateur pour se couvrir pour les obligations qui lui incombent ainsi que l'obligation d'adhérer un fonds de garantie. Le Conseil doit encore trancher la question de savoir si le système de garantie doit se limiter au remboursement et au rapatriement des voyageurs en cas d'insolvabilité de l'organisateur ou si un dédommagement pour un préjudice plus large doit être prévu.

#### Sécurité générale des produits

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Le Conseil aura une discussion générale sur la proposition présentée par la Commission en avril de cette année pour une directive rapprochant les législations nationales en matière de sécurité générale des produits.

La proposition de la Commission s'articule autour de deux idées : Face à des législations nationales différentes, la commercialisation d'un produit dans le marché commun doit s'inscrire dans un contexte communautaire normalisé d'exigences de sécurité que doivent respecter les fabricants, les importateurs et les commerçants. Il faut, sur le plan communautaire, créer un dispositif spécial d'intervention pour les situations d'urgence en cas de risques graves et immédiats liés directement à la sécurité d'un produit.

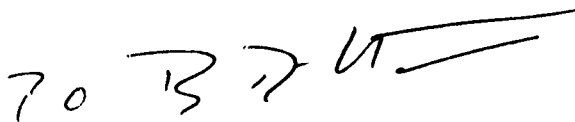
Au niveau des experts un certain nombre de divergences de vue sont apparues. Si tous les Etats membres souscrivent à l'objectif, plusieurs d'entre eux souhaitent limiter le champ d'application de la directive aux produits de consommation proprement dits.

D'autre part, certains Etats membres auront des doutes quant à l'opportunité de surimposer une directive aussi générale à l'ensemble des normes nationales. Ils estiment que cela va à l'encontre du principe de subsidiarité. La Commission estime que l'harmonisation et l'amélioration de la protection du consommateur visé par la directive permettront d'éviter dans le grand marché des obstacles aux échanges qui pourraient découler du fait que les appréciations des exigences de sécurité sont susceptibles de varier d'une autorité nationale à une autre.

Enfin, les prérogatives des instances communautaires en cas d'urgence font également l'objet d'une discussion dans laquelle plusieurs Etats membres se sont montrés hostiles à donner de nouveaux pouvoirs d'intervention à la Commission.

En ce qui concerne le reste de l'ordre du jour, le Conseil se propose d'évoquer la question d'une résolution du Conseil sur la relance de la politique de consommation, dossier ajourné lors de la réunion du Conseil en juin 1989 ainsi que des questions relatives à la consultation des représentants des associations des consommateurs au niveau de la Communauté.

Amitiés,



C.D. EHLERMANN

Bruxelles, le 10 novembre 1989

Note BIO(89) 326 (suite 1 et fin) aux bureaux nationaux  
cc. aux membres du Service du Porte-Parole

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Conseil Consommateurs du 9.11.1989 (E. Reuter)  
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Le Conseil a commencé ses travaux à 10.00 heures. La proposition de directive sur l'obligation générale de sécurité des produits a fait l'objet de plusieurs tours de table au cours desquels des orientations majoritaires se sont dégagées. En ce qui concerne la définition du champ d'application de la directive, il s'agit de cerner la notion de produits de consommation. Pour ce qui est de la coexistence de dispositions communautaires ou nationales spécifiques ou sectorielles avec la directive générale il s'agit de respecter le principe de subsidiarité en assurant une complémentarité active des différentes législations. En ce qui concerne les pouvoirs d'intervention de la Commission dans des situations d'urgence l'accent a été mis sur l'amélioration des systèmes d'alerte plutôt que sur l'action directe des instances communautaires. Enfin, il faudrait également approfondir la définition des critères de sécurité à insérer dans la directive. Beaucoup de doutes ont été exprimés au sujet de la notion de risques inacceptables. Il a été suggéré aussi de s'inspirer de la solution retenue dans la directive "Jouets". Le dossier a été renvoyé au Coreper.

Le Conseil a ensuite adopté la résolution (dont le projet avait été proposé par les délégations espagnole et française au Conseil de Juin) sur la relance au niveau communautaire de la politique de consommation. Mme Nelertz a décrit cette résolution comme le reveil en fanfare de la politique de consommation dans le grand marché. La résolution met l'accent sur la nécessité d'une meilleure représentation des intérêts des consommateurs dans les instances communautaires, sur l'accès à la justice, sur l'importance de tenir compte de l'aspect consommation dans toutes les politiques communautaires et sur la promotion de la sécurité générale et l'amélioration de l'information sur la qualité.

M. Van Miert a indiqué que la Commission allait présenter au prochain Conseil un programme triennal sur les priorités de la Commission dans ce domaine. Il a également informé le Conseil de son intention d'adapter la représentation des intérêts des consommateurs auprès de la Commission à la dimension du grand marché en modifiant la composition du Conseil consultatif des consommateurs. Dorenavant le Conseil aurait 35 membres, dont 12 représenteraient les 4 organismes européens traditionnels (3 par association) et 17 représenteraient les associations nationales des consommateurs (2 par grand pays, 1 par petit pays).

Le Conseil a également examiné la situation du projet de démonstration EHLASS et estimé qu'il serait utile de le continuer.

Enfin le Conseil a repris la discussion sur la directive voyages à forfait. Cette discussion a permis de trouver des accords sur les questions de la définition d'une prestation acquise à forfait, de la responsabilité contractuelle de l'organisateur de voyage et de la garantie financière qu'il doit présenter. On peut dire que la position commune est maintenant en vue. Elle pourra probablement être adoptée lors du Conseil Marché Intérieur de décembre.

Le Conseil a terminé ses travaux à 17.15 heures.

Amitiés,

  
C.D. EHLERMANN