

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE PARLIAMENT

on the common Council position concerning
the amended proposal for a Council directive
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1. The initial proposal for a directive (Doc COM/87/719 final) was presented by the Commission to the Council on 4 February 1988.

It aims at the harmonization of the national provisions relating to the labelling of tobacco products, which, at present, presents differences likely to create obstacles to the free movement of goods. It takes as its base a high level of protection of human health (Article 100A of the EEC Treaty).

The proposal for a directive lays down that :

- for all tobacco products, a general warning "smoking seriously damages to your health" must be printed on one of the two largest surfaces of all units of packaging;
- with regard to cigarette packets, in addition to the general warning, a specific warning must be printed on the other large surface of the packet. This warning is to be chosen from a list drawn up by each Member State on the basis of the list of health warnings set out in the annex to the proposal. These national list must include the following specific warnings : "Smoking causes cancer" and "smoking causes heart disease";
- cigarette packets must indicate the tar and nicotine content;
- an advisory committee on the adaptation of this directive to technical progress will be set up.

2. The Economic and Social Committee delivered its opinion on this proposal on 7 July 1988.

On 14 December 1988, the European Parliament, which had been consulted under the cooperation procedure, delivered its opinion which is, on the whole, favourable to the Commission proposal. The opinion contained thirteen amendments.

3. In drawing up its amended proposal (Doc COM (88) 845 final), the Commission took considerable account of these opinions. Furthermore, a number of improvements to the wording and technical amendments were made.

Either directly or by means of new wording, the Commission has incorporated the following seven Parliamentary amendments into the text of the amended proposal :

- introduction of a new recital on the need for health education programmes and periodical public information and awareness campaigns on the dangers of smoking (amendment N° 1);
- amendment of Article 3 to include the new ISO 8243 standard for measuring tar and nicotine yields (amendment N° 3);
- introduction into Article 4 (2) of a tolerance of 5% for the frequency of display for the various specific warnings to be printed on cigarette packets (amendment N°5);
- introduction in Article 4(3) of special provisions to cover the case of countries with several official languages (amendments N°6 et N° 20).
- limitation of the terms of reference of the committee on adaptation to technical progress to the methods of measurement of tar and nicotine yields (amendment N° 7);
- inclusion in Article 8 of a second paragraph so as to make explicit the conditions in which a Member State may take special measures as regards the marketing of tobacco products but without their implying changes as regards labelling (amendment N11/rev.).

However, the amended proposal does not incorporate the amendments seeking to :

- alter the definition of cigarettes (amendments N° 13 and N° 2) to include tobacco for hand-rolling cigarettes or to include at a later stage such hand-rolling tobaccos within the scope of the directive as regards tar and nicotine yields (amendment N° 12 or to define a method for measuring the tar and nicotine content of such tobaccos (amendment N° 4).

These four amendments could not be accepted for technical reasons. At the moment, there are no valid methods for measuring the tar and nicotine yields of hand-rolled cigarettes. Furthermore, a preliminary study is indispensable in order to determine the specific warnings appropriate to hand-rolled cigarettes. The Commission will submit a proposal to this effect in due course of time.

- alter the definition of tobacco products in Article 2 so as to exclude products for "sniffing" (amendments N° 13 and N° 2), which is not justified scientifically;
- include pipe tobaccos (amendment N° 14) within the scope of the directive from the point of view of specific warnings;

This amendment could not be accepted as a preliminary study is necessary in order to determine the specific warnings appropriate to this product.

- introduce a special system of labelling for cigars and cigarillos on the separate components of the packaging (amendment N° 18).
This amendment weakens the overall effect of the directive.

In all, the Commission has taken considerable account of Parliament's opinion, having ultimately only ruled out three amendments (N° 2, N° 13 and N° 18), which would weaken the planned system of labelling.

4. On 16 May 1989, the Council adopted its common position. This common position incorporates the text of the amended proposal by introducing only a number of improvements to the wording along with the following modifications :

- introduction into Article 4(3) of provision for possibly mentioning the author of the warnings to be printed on tobacco products. This provision takes account of parliamentary amendments N° 6 and N° 20;
- provision in Article 9 (2) of a transitional scheme for the marketing of tobacco products not conforming to this directive existing as at 31 December 1991 with differentiated deadlines for cigarettes (until 31 December 1992) and other tobacco products (until 31 December 1993);
- lastly, two specific warnings were added to the list contained in the annex.

The Commission considers that the common position is, as a whole, satisfactory since it follows its amended proposal very closely.

The Commission would remind the European Parliament that if it approves this common position within the next three months or fails to adopt a position within that period, the Council shall, pursuant to Article 149 (2)(b) of the EEC Treaty, finally adopt this directive in accordance with the common position.