

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 444 final - SYN 445

Brussels, 6 October 1993

**AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING FOR THE SECOND  
TIME DIRECTIVE 83/189/EEC LAYING DOWN A PROCEDURE  
FOR THE PROVISION OF INFORMATION IN THE FIELD OF  
TECHNICAL STANDARDS AND REGULATIONS.**

(presented by the Commission pursuant to Article 149(3)  
of the EEC-Treaty)

## EXPLANATORY MEMORANDUM

At the Plenary Session of 24 to 28 May 1993, the European Parliament issued its opinion on the first reading on the proposed directive presented by the Commission to the Council on 27 November 1992 (COM(92) 491 final).

The present proposal takes into account amendments nos. 2, 4, 5, 6, 7, 8, 9, 12 and partially no. 11 which the Commission feels it can accept.

The Commission accepts amendments nos. 2, 5, 7, 8 and 9 of the report by the Parliament because they provide clarification of the terms used in the text originally proposed by the Commission.

Amendment no. 4 aims to delete from the recitals all reference to the position of the Commission with regard to the inopposability to third parties of the non-notified national regulations. The Commission, while maintaining its basic position, accepts this amendment so as not to prejudice a matter which is currently being discussed before the Court of Justice.

Amendments nos. 6 and 12 are also accepted by the Commission. The Commission would like to specify to a greater extent the authorities which are subject to the notification requirements of the Directive.

With regard to amendment 11, the Commission accepts it in part: it agrees that the European Parliament should be kept informed, by means of annual statistics, of the development of the procedure.

However, the Commission cannot take into consideration amendments nos. 1, 3, 10, and partially no. 11 which it feels unable to accept.

With regard to amendment no. 1, it does not reflect the objective of the present proposal. The proposal is not intended to restrict the use and sale of chemical and pharmaceutical substances, but to establish, where the technical regulations aim to impose this restriction, greater information on the part of the Member States with regard to the reasons for and implications of such a measure. Therefore the Commission cannot accept it.

Amendment no. 3 is also not accepted for legal reasons: it is not necessary to exclude from the scope of Directive 83/189/EEC the national measures covered by Regulations 2081/92 and 2082/92 because these already expressly exclude the application of the procedure of Directive 83/189/EEC.

Similarly, amendment no. 10 cannot be accepted since it adds nothing to the current practice of the Commission. The Commission already gives reasons for its decisions, which are issued to the Member States when the emergency procedure is applied.

The Commission also publishes, in the Official Journal, the references of the notified drafts with their titles, the time limits for remarks and, where appropriate, an indication that the emergency procedure has been approved.

The same remarks apply with regard to the first part of amendment no. 11. The Commission cannot accept the first two ideas, which do not alter the current practice of the Commission, which already publishes complete reports and, by providing statistics concerning this notification procedure, helps to draw up the Annual Report on the Implementation of the White Paper on the Realization of the Single Market.

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Acting on the opinion delivered by Parliament<sup>(1)</sup> at first reading, the Commission has decided to amend its proposal as follows :

1. The following recital is inserted after recital 13 :

"whereas it is therefore imperative that the urgency procedure be adapted in a way that reflects experience to date."

2. Recital 16 is amended to read as follows :

"whereas it is appropriate, in the interests of legal certainty, that Member States publicly announce that a national technical regulation has been adopted in accordance with the formalities laid down in the Directive;"

3. Paragraph 4 of Article 1 is amended to read as follows :

"4. 'standard', a technical specification approved by a recognized standardizing body for repeated or continuous applications with which compliance is not compulsory.

The following definitions shall apply :

- international standard : a standard adopted by an international standardization organization and made available to the public;
- European standard : a standard adopted by one of the European standardization bodies listed in Annex I and made available to the public;
- national standard : a standard adopted by one of the national standardization bodies listed in Annex II and made available to the public.

Points 3 and 4 shall become points 5 and 6 respectively."

(1) Adopted on 24 May 1993 (PE - A3-0153/93)

4. Last subparagraph of Article 1, paragraph 9 is amended to read as follows :

"Technical regulations imposed by all local authorities except those at the level immediately below the central government shall be excluded. A detailed list of the authorities that impose technical regulations is published in Annex III of this directive."

5. Third subparagraph of Article 8, paragraph 1 is amended to read as follows :

"Member States shall communicate the draft again under the above conditions if they make significant changes to the draft that have the effect inter alia of extending its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive."

6. Article 8, paragraph 4 is amended to read as follows :

"4. Information supplied under this Article shall not be confidential, except at the express request of the notifying Member State. Any such request shall be explained by reasons."

7. In article 9, paragraphs 1, 2, 3 et 4 the terms "receipt by the Commission of the" are inserted after "from the date of the".

8. Article 11 is amended to read as follows :

"The Commission shall report every two years to the European Parliament and the Economic and Social Committee on the results of the application of this Directive. Lists of standardization work entrusted to the European standardization organisations pursuant to this Directive, as well as statistics on the notifications received shall be published on an annual basis in the Official Journal."

9. The following Annex is inserted after Annex II :

"Annex III :

List of authorities to which Directive will apply (in addition to the central authorities of the Member States) :

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BELGIQUE : Régions (3) et communautés (3)  
DANMARK : Amtskommuner (14)  
DEUTSCHLAND : Länder (16)  
ELLAS : Perifereia (13)  
ESPAÑA : Comunidades autónomas (17)  
FRANCE : Régions (y inclus les DOM) (26)  
IRLAND : Counties (32)  
ITALIA : Regioni (20)  
LUXEMBOURG : Districts (3)  
NEDERLAND : Produktschappen in de zin van de wet op de  
bedrijfsorganisatie (12)  
PORTUGAL : Regioes autonomas (2)  
UNITED KINGDOM : Nations (4)"

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