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93/580/EEC: Council Decision of 25 October 1993 concerning the institution of a Community system for the exchange of information in respect of certain products which may jeopardize consumers' health or safety

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No longer in force

COUNCIL DECISION of 25 October 1993 concerning the institution of a Community system for the exchange of information in respect of certain products which may jeopardize consumers' health or safety

(93/580/EEC)THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas, in the context of the internal market and in particular to maintain its ability to function, Member States and the Commission should be informed of measures restricting or prohibiting the marketing or use of products;

Whereas, to this end, current Community legislation provides for notification procedures in the event of risks arising from products which comply with that legislation, along with a procedure for the rapid exchange of information in respect of consumer products presenting a serious and immediate risk; whereas, on the other hand, there is in general no procedure whereby Member States can receive information on products marketed in a Member State which do not comply with Community or national legislation and which present a degree of risk to consumers' health or safety, although they do not give rise to any serious and immediate risk;

Whereas Council Directive 92/59/EEC of 29 June 1992 on general product safety (3) is intended to introduce, as soon as it is brought into force on 29 June 1994, a notification procedure applicable to products which are not covered by an equivalent procedure under specific Community legislation;

Whereas abolition of controls at intra-Community frontiers makes it necessary to bring forward certain measures to be taken pursuant to Article 7 of Directive 92/59/EEC, in order to ensure that the Member States and the Commission have at their disposal, a procedure for the exchange of information on the products in question;

Whereas this procedure should therefore apply to any consumer product which does not comply with the applicable rules and may jeopardize the health or safety of consumers, while not presenting a serious and immediate risk, and in respect of which a Member State has decided to take restrictive measures, in so far as the product concerned is not covered by an equivalent Community notification procedure;

Whereas this Decision does not apply to the following products in so far as Community notification procedures apply to them: agricultural products, foodstuffs, cosmetic products, tobacco products, materials and objects coming into contact with foodstuffs, medicinal preparations, medical products including means of in vitro diagnosis, plant health products;

Whereas, by Decision 89/45/EEC (4), a warning system has been set up, providing for a procedure for the rapid exchange of information between the Member States and the Commission applicable to consumer products presenting a serious and immediate risk; whereas,

for reasons of effectiveness, it is advisable to follow the structure of that information system, suitably amended in the light of the objective laid down;

Whereas, in the context of this procedure, it is necessary to provide for the use of a standard format setting out clearly, for users, the type of information to be supplied;

Whereas whenever it is established, in the context of the functioning of the internal market, that consumer products, because of their non-compliance with the rules that apply to them, risk jeopardizing consumers' health or safety, adequate information should be provided at Community level in order to ensure that appropriate measures can be taken; whereas this Decision constitutes a measure to accompany the removal of technical controls at internal frontiers; whereas the provisions of this Decision, which correspond to other existing procedures and are based on those provided for in Article 7 of Directive 92/59/EEC, are necessary to ensure adequate exchange of information; whereas they are limited to what is strictly necessary in this respect;

Whereas the measures laid down by this Decision should not predetermine the arrangements for administrative cooperation within the framework of the implementation of the internal market; Whereas the Treaty does not provide for the adoption of this Decision powers other than those under Article 235,

HAS ADOPTED THIS DECISION:

Article 1

1. Any Member State which decides to adopt regulations, laws and administrative measures to prevent, restrict or attach particular conditions to the marketing or use in its territory of a product or product batch, because it does not comply with the relevant Community or national rules and may jeopardize the health or safety of consumers when used in normal and foreseeable conditions, shall notify the Commission thereof. Whenever possible, the producer, distributor or importer of the product or product batch shall first be consulted.

The first subparagraph shall not apply if the measures relate to an event the effect of which is local and in any case limited to the territory of the Member State concerned.

2. The information relating to the product or product batch referred to in paragraph 1 shall be drawn up in accordance with the format set out in Annex I and shall be forwarded to the Commission in accordance with the procedure described in Annex II.

3. On receipt of the information, the Commission shall verify its compliance with the terms of this Decision and, after holding, if necessary, consultations with the parties concerned, shall forward to the competent authorities of the other Member States.

Article 2

This Decision shall apply to all products intended for use by consumers except products intended exclusively for professional use.

This Decision shall apply inasmuch as the notification referred to in Article 1 (1) is not prescribed in a specific instrument of Community legislation.

Article 3

Each Member State shall indicate to the Commission one or more competent national authorities designated to forward or receive the information referred to in Article 1. On receipt of this indication, the Commission shall forward it to the competent authorities of the other Member States.

Article 4

In justified cases, if the competent authority of the Member State supplying information under this Decision so requests, the information shall be treated as confidential.

Article 5

This Decision shall apply until 29 June 1994.

Article 6

This Decision is addressed to the Member States.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

(1) OJ No C 347, 31. 12. 1992, p. 11.

(2) OJ No C 115, 26. 4. 1993, p. 211.

(3) OJ No L 228, 11. 8. 1992, p. 24.

(4) OJ No L 17, 21. 1. 1989, p. 51. Decision as amended by Decision 90/352/EEC (OJ No L 173, 6. 7. 1990, p. 49).

ANNEX I

COMMUNITY SYSTEM FOR THE EXCHANGE OF INFORMATION Application of
Decision 93/580/EEC 1. Notifying Member State

(Name and address of person to contact for further information)

2. Date of notification

3. Product category

4. Description of product, packaging (*) (**) and labelling

Name of product:

Brand name:

(*) Include sufficient details to identify the product clearly (in particular: materials, colours, dimensions).

(**) Give model numbers and other markings.

5. Information concerning the manufacturer

Name:

Address:

6. Information concerning the importer

Name:

Address:

7. Information concerning the distributor

Name:

Address:

8. Country of origin:

9. Where was the product found?

9a) At (tick appropriate box):

retailer wholesaler other

10. Nature of risk

(Specify the risk and any requirements with which the product does not comply, including, where appropriate, details and results of tests carried out on product and any accidents which have occurred)

11. Details of measures taken

(Including scope, effective date and grounds)

12. Additional information

(Especially if the products are sold in other Member States)

ANNEX II

TRANSMISSION PROCEDURE Member States' notifications in respect of products falling within the scope of Article 1 of this Decision are to be forwarded, by fax or telex, to the following address:

Commission of the European Communities,
Consumer Policy Service,
Unit 3 - General product and services safety,
200, rue de la Loi,
B-1049 Brussels.
Fax: (32) 2 296 43 23;
Telex: COMEU B 21877.