

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (89) 537 final - SYN 139

Brussels, 6 November 1989

Re-examined Proposal for a
COUNCIL DIRECTIVE
amending for the fifth time
Directive 76/768/EEC on the
approximation of the laws of the Member States
relating to cosmetic products

(presented by the Commission pursuant to Article 149. 2 (d) of the EEC Treaty)

1.

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

on

the re-examined proposal by the Commission
for a Council Directive
amending for the fifth time
Directive 76/768/EEC on the approximation
of the laws of the Member States
relating to cosmetic products

The initial proposal for this Directive was submitted to the Council by the Commission on 21 June 1988.¹

The aim is to implement measures to allow adaptation to technical progress of the technical requirements laid down by the Directive beyond the scheduled expiry date (31 December 1988) and to confer powers on the Commission to take action in this sector, with assistance from an Advisory Committee.

The European Parliament and Economic and Social Committee delivered their opinions respectively on 18 January 1989 (approving the Commission's proposal)² and 1 December 1988 (favouring continuation of the present situation).³

The Council adopted a common position on 3 May 1984.⁴ It deleted the texts proposed by the Commission to adapt Articles 9 and 10 of the base Directive and agreed unanimously that the current procedure involving the Committee should apply for Annexes III to VII to Directive 76/768/EEC.

On 13 September 1989 the European Parliament amended, on second reading, the common position of the Council by way of four amendments re-establishing in full the text proposed by the Commission in its above mentioned proposal of 21 June 1988.

The Commission likewise upholds its proposal.

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- (1) COM(88)324 final; OJ C 214, 16.8.88, p.16
 - (2) EP 127.212 def., 12.12.88
 - (3) OJ C 56, 6.3.89, p.1
 - (4) 6149/89, 27.4.89
 - (5) EP 134.705, 13.9.89

Re-examined Proposal for a Council Directive amending for the fifth time Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (*)

COM(89) 537 final — SYN 139

(Submitted by the Commission on 10 November pursuant to Article 149 (2) (d) of the EEC Treaty)

(89/C 296/07)

(*) OJ No C 214, 16. 8. 1988, p. 16.

COMMON POSITION OF THE COUNCIL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 A thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Directive 76/768/EEC, as last amended by Directive 88/667/EEC, establishes, for the purposes of adapting technical requirements laid down by the Directive to technical progress, the procedure for close cooperation between the Member States and the Commission within a Committee on the adaptation to technical progress of the Directives on the removal of technical barriers to trade in the cosmetic products sector;

Whereas, in the case of Annexes III to VII, the procedure involving that Committee applies until 31 December 1988; whereas the period during which the procedure applies should be extended indefinitely,

RE-EXAMINED PROPOSAL BY THE COMMISSION FOLLOWING THE AMENDMENTS OF THE EUROPEAN PARLIAMENT ON SECOND READING OF 13 SEPTEMBER 1989

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Unchanged

Whereas, in the case of Annexes III to VII, the procedure involving that Committee applies until 31 December 1988;

Whereas experience has shown that there should be a procedure for rapidly adapting technical requirements laid down by the Directive to technical progress; whereas powers should therefore be conferred on the Commission to take action in this sector, with assistance from an Advisory Committee,

COMMON POSITION OF THE COUNCIL

RE-EXAMINED PROPOSAL BY THE COMMISSION

HAS ADOPTED THIS DIRECTIVE:

Article 1

The second paragraph of Article 8 (2) of Directive 76/768/EEC is deleted.

Article 2

This Directive is addressed to the Member States.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 76/768/EEC is hereby amended as follows:

1. The second paragraph of Article 8 (2) is deleted.
2. Article 9 is replaced by the following:

'Article 9

The Commission shall be assisted by an Advisory Committee on the Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in the Cosmetic Products Sector, hereinafter referred to as "the Committee", composed of representatives of the member States and chaired by a representative of the Commission.'

3. Article 10 is replaced by the following:

'Article 10

Where the procedure laid down in this Article is to be followed, the following provisions shall apply:

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within the time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote

The opinion shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.'

Article 2

Unchanged.