



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.11.1996
COM(96) 594 final

96/0280 (COD)

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending

**Council Directives 76/116/EEC, 80/876/EEC, 89/284/EEC and 89/530/EEC on the
approximation of the laws of the Member States relating to fertilizers**

(presented by the Commission)

Explanatory Memorandum

1. INTRODUCTION

1.1. Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers¹ is undergoing legislative consolidation (the Commission will shortly transmit a proposal to this effect to the Council).

1.2. Directive 76/116/EEC provides that the designation "EEC fertilizer" may be used for fertilizers belonging to one of the fertilizer types listed in Annex I which comply with the requirements of the Directive, including those laid down in Annexes I to III. This designation must appear on the accompanying documents, the packages or the labels of these products. Where these conditions are met, Member States may not prohibit, restrict or hinder the marketing of fertilizers bearing this designation on grounds of composition, identification, labelling or packaging.

Following the adoption of this Directive, the Council adopted the following directives relating to fertilizers which also make reference to the designation "EEC fertilizer":

- Council Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content²;
- Council Directive 89/284/EEC of 13 April 1989 supplementing and amending Directive 76/116/EEC in respect of the calcium, magnesium, sodium and sulphur content of fertilizers;³
- Council Directive 89/530/EEC of 18 September 1989 supplementing and amending Directive 76/116/EEC in respect of the trace elements boron, cobalt, copper, iron, manganese, molybdenum and zinc contained in fertilizers⁴.

1.3. The Treaty on European Union replaced the term "European Economic Community" by the term "European Community"; the abovementioned designation "EEC fertilizer" should therefore be modified accordingly.

While this may be considered to be a purely formal amendment, Member States must nevertheless transpose it into national law if the marking "EC fertilizer" is to be used in place of "EEC fertilizer" on the accompanying documents, the packages or the labels of fertilizers complying with the abovementioned conditions. Furthermore, this amendment might have a financial impact on businesses if the labels and packages had to be updated

¹ OJ No L 24, 30 January 1976, p. 21.

² OJ No L 250, 23 September 1980, p. 7.

³ OJ No L 111, 22 April 1989, p. 34.

⁴ OJ No L 281, 30 September 1989, p. 116.

with immediate effect. It is therefore necessary to specify a period during which labels and packages bearing the indication "EEC fertilizer" may continue to be used.

For these reasons, and because a consolidating directive does not have to be transposed since consolidated directives are assumed to have been transposed within the necessary period, this amendment could not be incorporated in the proposal for legislative consolidation owing to its purely formal character.

Consequently, this proposal amends the abovementioned Council Directives by replacing the designation "EEC fertilizer" by that of "EC fertilizer".

1.4. Once this proposal has been adopted by the Council, it is planned to incorporate the amendment in the proposal for legislative consolidation which will then be before the Council.

There are no subsidiarity implications, given that the proposal is based on Article 43 of the Treaty establishing the European Community and that it is therefore a matter of exclusive Community competence. Moreover, the proposal is compatible with the proportionality principle set out in the third subparagraph of Article 3b of the abovementioned Treaty, since it merely adapts the existing terminology to that introduced by the Treaty on European Union.

2. COST-BENEFIT ANALYSIS OF THE DRAFT DIRECTIVE

2.1. Costs

2.1.1. Impact

The impact of this draft Directive in terms of costs concerns the updating of the labels used for fertilizers that may be designated "EC fertilizers". No further cost impact is expected.

2.1.2. Costs

The application of this draft Directive involves only the technical costs of substituting the labels. Companies which have stocks of labelled products may take advantage of the adaptation period to use up these stocks and avoid the cost of changing the labels.

2.2. Benefits

The obligation to implement the provisions of the Directive has the advantage that it eliminates any doubts that may be raised in respect of the capacity of EEC fertilizers to circulate freely within the European Union on the grounds that they bear an obsolete designation.

3. CONSULTATIONS REQUIRED FOR THE DRAFT REVISION

The draft revision was discussed at the meetings of the Fertilizers Working Group, at which representatives of industry were also present (EFMA, European Fertilizers Manufacturers' Association). The opinion of this organization was taken into account, in particular with regard to the time allowed to industry to adapt to the new situation.

4. ANALYSIS OF THE PROPOSED CHANGES

Substitution of the term "EEC fertilizer" by "EC fertilizer" is proposed in all cases verified in the following Council Directives:

- 76/116/EEC
- 80/876/EEC
- 89/284/EEC
- 89/530/EEC

5. LEGAL BASIS

Under Article G of the Treaty on European Union, the term "European Economic Community" has been replaced by the term "European Community". The initials "EEC" are therefore to be replaced by the initials "EC".

6. CONSULTATION OF THE EUROPEAN PARLIAMENT AND ECONOMIC AND SOCIAL COMMITTEE

In accordance with Article 100a of the Treaty, the co-decision procedure applies. The Economic and Social Committee must also be consulted.

Proposal for a European Parliament and Council Directive amending Council Directives 76/116/EEC, 80/876/EEC, 89/284/EEC and 89/530/EEC on the approximation of the laws of the Member States relating to fertilizers

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Acting in accordance with the procedure under Article 189b of the Treaty³,

Whereas, under Article G of the Treaty on European Union, the term 'European Economic Community' has been replaced by the term 'European Community'; whereas the initials 'EEC' should therefore be replaced by the initials 'EC';

Whereas the term 'EEC fertilizer' is contained in certain provisions of Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers⁴, Council Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content⁵, Council Directive 89/284/EEC of 13 April 1989 supplementing and amending Directive 76/116/EEC in respect of the calcium, magnesium, sodium and sulphur content of fertilizers⁶ and Council Directive 89/530/EEC of 18 September 1989 supplementing and amending Directive 76/116/EEC in respect of the trace elements boron, cobalt, copper, iron, manganese, molybdenum and zinc contained in fertilizers; whereas, in consequence, the term 'EEC fertilizer' should be replaced in these provisions by the term 'EC fertilizer';

Whereas, however, manufacturers normally keep in stock large quantities of packagings, labels and accompanying documents, thereby exposing themselves to the risk of incurring additional expenditure in the event of such a change being implemented with immediate effect; whereas, therefore, a period should be fixed during which packagings, labels and accompanying documents marked 'EEC fertilizer' can continue to be used,

HAVE ADOPTED THIS DIRECTIVE:

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OJ L 24, 30 January 1976, p.21. Directive last supplemented and amended by Directive 89/530/EEC. (OJ L 281, 30 September 1989, p.116).

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OJ L 250, 23 September 1980, p.7.

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OJ L 111, 22 April 1989, p.34.

Article 1

1. Directive 76/116/EEC is hereby amended as follows:

- a) In Article 1, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- b) In Article 2, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- c) In Article 7, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- d) In Article 8(1), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- e) In Annex II, point 1(a), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.

2. Directive 80/876/EEC is hereby amended as follows:

- a) In Article 2, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- b) In Article 4, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- c) In Article 6, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- d) In Article 7(1), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- e) In Article 7(3), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.

3. Directive 89/284/EEC is hereby amended as follows:

- a) In Article 1, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- b) In Article 2, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- c) In Article 4, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- d) In Article 6(a), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- e) In Article 9(1) and (2), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.

4. Directive 89/530/EEC is hereby amended as follows:

- a) In Article 1(1), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.

- b) In Article 1(2), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- c) In Article 2, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- d) In Article 3(1), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- e) In Article 3(1)(b), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- f) In Article 4(a), the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- g) In Article 6, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.
- h) In the Annex, Chapters C and D, the term 'EEC fertilizer' shall be replaced by the term 'EC fertilizer'.

Article 2

The stocks of packagings, labels and accompanying documents marked 'EEC fertilizer' can continue to be used until 31 December 1998.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 1998 at the latest and shall forthwith inform the Commission thereof.

When Member States adopt these provisions, the latter shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods for making such reference shall be laid down by the Member States.

2. Member States shall forthwith communicate to the Commission the text of all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States accordingly.

Article 4

This Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Communities.

Article 5

This Directive is addressed to the Member States.

Done at Brussels

For the Council

For the European Parliament

ISSN 0254-1475

COM(96) 594 final

DOCUMENTS

EN

06 03 02

Catalogue number : CB-CO-96-591-EN-C

ISBN 92-78-11649-1

Office for Official Publications of the European Communities

L-2985 Luxembourg