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(Information)

COUNCIL

AGREEMENT
OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER
STATES MEETING IN COUNCIL

of 5 March 1973

on information for the Commission and for the Member States with a view to possible harmonization throughout the Communities of urgent measures concerning the protection of the environment

THE REPRESENTATIVES OF THE GOVERNMENTS
OF THE MEMBER STATES, MEETING IN COUNCIL,

Whereas the reduction of pollution and nuisances is of particular importance for the European Communities; whereas measures must be taken as a matter of urgency to combat such pollution and nuisances;

Whereas the Commission has proposed to the Council an action programme in this respect which must aim to maintain and, wherever possible, to improve the quality of the environment in the territory of the Member States of the Community;

Whereas measures in this sector are being prepared in most of the Member States;

Whereas some of these measures, if they are not harmonized, could affect the functioning of the common market and the implementation of the Communities' programme for the reduction of pollution and nuisances and the protection of the natural environment;

Whereas, nevertheless, the pursuit of harmonization must not delay the adoption of essential measures for better protection of the environment;

Whereas knowledge of the intentions of Member States in this respect must be available to the Commission and the Member States, especially to enable the latter to propose Community measures where appropriate;

Whereas it is therefore necessary to establish a procedure for giving information concerning the intentions of the Governments of the Member States and concerning measures which they have in draft; especially where such measures are likely to affect the functioning of the common market and the implementation of the Communities' programme for the reduction of pollution and nuisances and the protection of the natural environment;

Whereas such information must be given as early as possible before the entry into force of the measures envisaged;

Whereas the Governments of the Member States must however be able, by way of exception, to take immediate action at national level when this is urgently necessary for reasons of safety or health;

HAVE AGREED ⁽¹⁾ AS FOLLOWS:

In order to ensure that the Commission and the Governments of the Member States are kept informed and in order to allow the Commission, where appropriate, to submit suitable proposals to the Council:

⁽¹⁾ The Representatives of the Governments of the Member States, meeting in Council, take note that this Agreement is a gentlemen's agreement.

1. The Commission shall be informed as soon as possible of any draft legislative, regulatory or administrative measures and of any international initiative concerning the protection or improvement of the environment which
 - may directly affect the functioning of the common market, or
 - are relevant to the Communities' programme for the reduction of pollution and nuisances and the protection of the natural environment,or
 - are of particular interest to the Communities and the Member States from the point of view of the protection of public health or of the natural environment, particularly where these measures may have repercussions for other Member States.

The Governments of the Member States take note that the Commission will, as soon as possible, communicate to the Governments of the Member States all information acquired pursuant to this Agreement.

2. The legislative, regulatory or administrative measures referred to in item 1, which are liable to have a direct effect on the functioning of the common market shall only be adopted if the Commission does not notify the Governments concerned, within two months of receiving such information, of its intention to submit to the Council proposals to adopt Community measures on this subject. Such proposals must take into account the aims of the national measures in question from the point of view of environmental protection.

However, if the Commission does not submit to the Council a proposal within five months of receipt of such said information, the Government concerned may proceed immediately with the proposed measures. The same shall apply if the Council has not acted on the proposal from the Commission within five months of its receipt.

3. In appropriate cases⁽¹⁾, the procedure described in item 2 will be extended to draft measures liable to affect the implementation of the Communities' programme, as adopted by the Council, for the reduction of pollution and nuisances and to the protection of the natural environment.
4. Notwithstanding the foregoing and by way of exception, legislative, regulatory or administrative measures may be adopted if these are urgently necessary for serious reasons of safety or health. The Governments of the Member States will immediately communicate the texts concerning such measures to the Commission which will transmit them to the Governments of the other Member States as soon as possible.
5. The Governments of the Member States will coordinate their views on any international initiative in respect of the environment likely to affect the functioning of the common market or the implementation of those parts of the Communities' programme for the reduction of pollution and nuisances and the protection of the natural environment to which the procedure laid down in item 2 applies by virtue of item 3, without prejudice to the application of the Treaties and in particular of Articles 113 and 116 of the Treaty establishing the European Economic Community.

⁽¹⁾ These cases will be determined at the time of defining the programme for the reduction of pollution and nuisances and the protection of the natural environment.

AGREEMENT

of 5 March 1973

amending the Agreement of the Representatives of the Governments of the Member States meeting in Council of 28 May 1969 concerning standstill and information for the Commission

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES,
MEETING IN COUNCIL,

Whereas the Representatives of the Governments of the Member States, meeting in Council, concluded on 5 March 1973 an Agreement on information for the Commission and for the Member States with a view to possible harmonization throughout the Communities of urgent measures concerning the protection of the environment ⁽¹⁾;

Whereas the Governments of the Member States and the Commission should not have to comply with different periods of time for completing the procedures, depending on whether they are applying the above Agreement or the Agreement of the Representatives of the Governments of the Member States, meeting in Council, of 28 May 1969 concerning standstill and information for the Commission ⁽²⁾;

HAVE AGREED:

To amend as follows the Agreement by the Representatives of the Governments of the Member States, meeting in Council, of 28 May 1969 concerning standstill and information for the Commission:

- in paragraph 1 (a), 9th line, the words 'six months' shall be replaced by 'five months'
- in paragraph 1 (b), 2nd indent, 1st line, the words 'one month' shall be replaced by 'two months'
- in paragraph 1 (b), 3rd indent, 4th line, the words 'six months' shall be replaced by 'five months'.

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⁽¹⁾ See p. 1 of this Official Journal.

⁽²⁾ OJ No C 76, 17. 6. 1969, p. 9.