# DIRECTIVE 98/97/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**of 22 December 1998**

**amending Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilisers, as regards the marketing in Austria, Finland and in Sweden of fertilisers containing cadmium**

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 Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 189b of the Treaty [3],

Whereas Article 69 and point 4 of Annex VIII, Article 84 and point 2 of Annex X and Article 112 and point 4 of Annex XII of the 1994 Act of Accession, concerning respectively Austria, Finland and Sweden, provide that Article 7 of Directive 76/116/EEC [4], in so far as it concerns the cadmium content of fertilisers, shall not apply to those Member States before 1 January 1999 and that the said provisions of the Act of Accession will be reviewed in accordance with Community procedures before 31 December 1998;

Whereas the said review cannot be completed by 31 December 1998 because of the absence in many Member States of the exposure data needed to evaluate the risks to health and the environment of cadmium in fertilisers; whereas the review needs to be continued by performing further work after this date;

Whereas the further work should evaluate the risks in Member States from cadmium in fertilisers in particular to the health of vulnerable population groups and to the environment; whereas this can only be accomplished after several years;

Whereas a risk assessment of cadmium within the framework of Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances [5] has been launched; whereas the results will become available only after several years;

Whereas, apart from the obligation to review laid down in the 1994 Act of Accession, a review of Community legislation in force can always be decided according to Community procedures; whereas Community legislation may provide for derogations for limited periods for certain Member States because of the specificity of their situations,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

In Article 7 of Directive 76/116/EEC, the following two paragraphs shall be added:

'However, Austria, Finland and Sweden may prohibit the marketing on their territory of fertilisers containing cadmium at concentrations in excess of those which were fixed nationally at the date of accession. The derogation shall apply for the period from 1 January 1999 until 31 December 2001.

The Commission shall, in consultation with Member States and interested parties, review by 31 December 2001 the need for establishing provisions at Community level concerning the cadmium content of fertilisers'.

*Article 2*

The Republic of Austria, the Republic of Finland and the Kingdom of Sweden shall adopt and publish the provisions necessary to comply with this Directive by 31 December 1998 at the latest.

When the Member States referred to in the first paragraph adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

[1] OJ C 108, 7. 4. 1998, p. 83.
[2] OJ C 214, 10. 7. 1998, p. 15.
[3] Opinion of the European Parliament of 16 July 1998 (OJ C 292, 21. 9. 1998, p. 117), Council Common Position of 13 October 1998 (OJ C 388, 14. 12. 1998, p. 1) and Decision of the European Parliament of 3 December 1998 (not yet published in the Official Journal). Council Decision of 14 December 1998.
[4] OJ L 24, 30. 1. 1976, p. 21. Directive as last amended by Council Directive 97/63/EC (OJ L 335, 6. 12. 1997, p. 15).
[5] OJ L 84, 5. 4. 1993, p. 1.