II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 13 November 1989

on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products

(89/622/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas there are differences between the laws, regulations and administrative provisions of the Member States on the labelling of tobacco products; whereas these differences are likely to constitute barriers to trade and to impede the establishment and operation of the internal market;

Whereas these possible barriers should be eliminated and whereas, to that end, the marketing and free movement of tobacco products should be made subject to common rules concerning labelling;

Whereas such common rules must take due account of public health protection;

Whereas the European Council meeting held in Milan on 28 and 29 June 1985 stressed the importance of launching a European action programme against cancer;

Whereas the Council and the representatives of the Governments of the Member States, meeting within the Council, in their resolution of 7 July 1986 on a programme of action of the European Communities against cancer (4) set for this programme the objective of contributing to an improvement of the health and quality of life of citizens within the Community by reducing the number of cancers and whereas they have for this purpose identified a fight against the use of tobacco products as their prime objective;

Whereas the printing of health warnings on the unit packaging of all tobacco products concerning the risks of use of such products is a vital factor in the protection of public health;

Whereas, for the purpose of improving public health protection, the indication of the tar and nicotine yield on cigarette packets is essential for the health information and education of the general public;

Whereas this Directive contains provisions which will be reviewed on the basis of experience gained and the development of medical knowledge in this area, the objective being to achieve greater protection of individuals;

(1) OJ No C 48, 20. 2. 1988, p. 8, and OJ No C 62, 11. 3. 1989, p. 12.
(2) OJ No C 12, 16. 1. 1989, p. 106 and OJ No C 291, 20. 11. 1989.
(3) OJ No C 237, 12. 9. 1980, p. 43.
(4) OJ No C 184, 23. 7. 1986, p. 19.

Whereas, finally, the initiatives set in this Directive will have an even more beneficial effect on public health if they are coupled with health education programmes during the years of compulsory education and with information and public awareness campaigns,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The objective of this Directive is the harmonization of the laws, regulations and administrative provisions of the Member States concerning the warnings regarding health to appear on the unit packet of tobacco products and the indication of the tar and nicotine yield to appear on cigarette packets, taking as a base a high level of health protection by reducing the harm done to health by tobacco addiction.

Article 2

For the purposes of this Directive:

(1) 'tobacco products' means products for the purpose of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco;

(2) 'tar' means the raw anhydrous nicotine-free condensate of smoke;

(3) 'nicotine' means nicotinic alkaloids.

Article 3

1. The tar and nicotine yields that must be indicated on cigarette packets shall be measured on the basis of the ISO 4387 and ISO 3400 methods.

2. The accuracy of the indications on packets shall be verified in accordance with ISO standard 8243.

3. The indications concerned shall be printed on the side of cigarette packets, in the official language or languages of the country of final marketing in clearly legible print on a contrasting background so that at least 4 % of the corresponding surface is covered. This percentage shall be raised to 6 % for countries with two official languages and to 8 % for countries with three official languages.

4. In January each year the Member States shall forward to the Commission lists of the tar and nicotine contents of the cigarettes sold on their markets. The Commission shall publish this information in the *Official Journal of the European Communities*.

Article 4

1. All unit packets of tobacco products shall carry, on the most visible surface, the following general warning in the official language or languages of the country of final marketing: 'Tobacco seriously damages health'.

2. With regard to cigarette packets, the other large surface of the packet shall carry, in the official language or languages of the country of final marketing, specific warnings alternating in accordance with the following rule:

— each Member State shall draw up a list of warnings taken exclusively from those listed in the Annex,

— the specific warnings selected shall be printed on the unit packets so as to guarantee the appearance of each warning on an equal quantity of unit packets, with a tolerance of around 5 %.

3. Member States may stipulate that the warnings referred to in paragraphs 1 and 2 be combined with the indication of the authority that is their author.

4. On cigarette packets the warnings provided for in paragraphs 1 and 2 shall cover at least 4 % of each large surface of the unit packet, excluding the indication of the authority provided for in paragraph 3. This percentage shall be increased to 6 % for countries with two official languages and to 8 % for countries with three official languages.

The required warnings on the two largest surfaces of each cigarette packet:

(a) shall be clear and legible;

(b) shall be printed in bold letters;

(c) shall be printed on a contrasting background;

(d) shall not be printed in a place where they may be damaged when the package is opened;

(e) shall not be printed on the transparent wrapper or any other external wrapping.

5. In the case of tobacco products other than cigarettes, the general warning laid down in paragraph 1 shall be printed in, or irremoveably affixed to, a conspicuous place on a contrasting background and in such a way as to be easilyvisible, clearly legible and indelible. It shall not in any way be hidden, obscured or interrupted by other written or pictorial matter.