COUNCIL DIRECTIVE

of 28 March 1983

laying down a procedure for the provision of information in the field of technical standards and regulations

(83/189/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 213 thereof,

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

Having regard to the opinion of the European Parliament (2),

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

Whereas the prohibition of quantitative restrictions on the movement of goods and of measures having an equivalent effect is one of the basic principles of the Community;

Whereas barriers to trade resulting from technical regulations relating to products may be allowed only where they are necessary in order to meet essential requirements and have an objective in the public interest of which they constitute the main guarantee;

Whereas it is essential for the Commission to have the necessary information at its disposal before the adoption of technical provisions; whereas, consequently, the Member States which are required to facilitate the achievement of its task pursuant to Article 5 of the Treaty must notify it of their projects in the field of technical regulations;

Whereas all the Member States must also be informed of the technical regulations contemplated by any one Member State;

Whereas the Commission and the Member States must also be allowed sufficient time in which to propose amendments to a contemplated measure, in order to remove or reduce any barriers which it might create to the free movement of goods;

Whereas the Commission must also have the option of proposing or adopting a Community directive governing the subject of the national measure contemplated;

Whereas, in the two instances set out above, the Member State in question must, pursuant to the general obligations laid down in Article 5 of the Treaty, defer implementation of the contemplated measure for a period sufficient to allow either a joint examination of the proposed amendments or the preparation of the proposal for a Council Directive or of the Commission Directive; whereas the time limits laid down in the Agreement of the representatives of the Governments of the Member States meeting within the Council of 28 May 1969 providing for standstill and notification to the Commission (4), as amended by the Agreement of 5 March 1973 (5), have proved inadequate in the cases concerned and should accordingly be extended;

Whereas the procedure concerning the standstill arrangement and notification of the Commission contained in the abovementioned Agreement of 28 May 1969 remains applicable to products subject to that procedure which are not covered by this Directive;

Whereas, in practice, national technical standards may have the same effects on the free movement of goods as technical regulations;

Whereas it would therefore appear necessary to inform the Commission of draft standards under similar conditions to those which apply to technical regulations; whereas, pursuant to Article 213 of the Treaty, the Commission may, within the limits and under the conditions laid down by the Council in accordance with the provisions of the Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it;

Whereas it is also necessary for the Member States and the standards institutions to be informed of standards contemplated by standards institutions in the other Member States;

(1) OJ No C 253, 1. 10. 1980, p. 2.
(2) OJ No C 144, 15. 6. 1981, p. 122.
(3) OJ No C 159, 29. 6. 1981, p. 23.
(4) OJ No C 76, 17. 6. 1969, p. 9.
(5) OJ No C 9, 15. 3. 1973, p. 3.

Whereas it is necessary to set up a Standing Committee, the members of which will be appointed by the Member States with the task of helping the Commission to examine draft national standards and cooperating in its efforts to lessen any adverse effects thereof on the free movement of goods,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, the following meanings shall apply:

1. 'technical specification', a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking or labelling;

2. 'standard', a technical specification approved by a recognized standardizing body for repeated or continuous application, with which compliance is not compulsory;

3. 'standards programme', document listing the subjects for which it is intended to draw up or alter a standard;

4. 'draft standard', document containing the text of the technical specifications concerning a given subject, which is being considered for adoption in accordance with the national standards procedure, as that document stands after the preparatory work and as circulated for public comment or scrutiny;

5. 'technical regulation', technical specifications, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing or use in a Member State or a major part thereof, except those laid down by local authorities;

6. 'draft technical regulation', the text of a technical specification including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage or preparation at which substantial amendments can still be made;

7. 'product', industrially manufactured products other than agricultural products within the meaning of Article 38 (1) of the Treaty, products for human or animal consumption, medicinal products within the meaning of Directive 65/65/EEC [1] and cosmetic products within the meaning of Directive 76/768/EEC [2].

Article 2

1. The Commission and the standards institutions in List 1 annexed hereto shall be informed each year, not later than 31 January, of the standards programmes drawn up by the national institutions in List 2 annexed hereto. This information shall be brought up to date every quarter. The Commission may amend or supplement these lists on the basis of communications from the Member States.

2. Standards programmes shall indicate in particular whether the standard:

— will be the transposition in full of an existing international or European standard,

— will be the transposition of an international or European standard incorporating certain national divergences or amendments,

— will be a new national standard,

— will constitute an amendment of a national standard.

After consulting the Committee referred to in Article 5, the Commission may draw up rules for the codified presentation of this information and a plan and criteria for the presentation of standards programmes designed to facilitate their comparison.

3. The Commission shall keep this information at the disposal of the Member States in a form in which the different programmes can be compared.

Article 3

The Commission and the standards institutions shall be informed if one or more standards institutions:

(1) OJ No 22, 9. 2. 1965, p. 369/65.
(2) OJ No L 262, 27. 9. 1976, p. 169.