3. The Member State in which a carrier is established may, as an exceptional measure, and after consulting the Commission, grant derogations with regard to the majority required in paragraph 1, provided that the way in which the transport undertaking is managed is not likely to disturb the transport market.

4. The production of a certificate issued by the Member State in which the carrier is established constitutes proof of compliance with the provisions of paragraphs 1, 2 and 3. This certificate or a copy of it must be kept on board the vehicle.

Article 3

The carrying out by a non-resident carrier of the national transport operations referred to in Article 1 shall be governed by the laws, regulations and administrative provisions in force in the Member State in which the transport operations are carried out; such rules must be applied to non-resident carriers under the conditions imposed by that State on its own nationals and in such a way that there is no discrimination against non-resident carriers on the grounds of nationality or place of establishment.

Article 4

For the purposes of the national transport operations referred to in Article 1, no Member State shall refuse the choice of a fictitious registered place of business to a non-resident carrier, where the laws, regulations or administrative provisions of that Member State entail choosing a registered place of business. This fictitious registered place of business must be the same for all the vehicles of the non-resident carrier.

Article 5

1. Without prejudice to Article 1, any carrier covered by that Article may, with effect from 1 January 1987, carry out national transport operations in a different Member State from the one in which he is established, without quantitative or qualitative restrictions, subject to the following conditions:

— the transport operations must follow on from a haulage operation between two Member States carried out under cover of an authorization or without an authorization in the case of liberalized services,

— not more than two transport operations may be carried out,

— the transport operations must be carried out during the return journey either to the Member State in which the operator is based or to the Member State where the preceding international transport operation began.

2. Without prejudice to paragraph 1, the provisions of Articles 2 and 3 shall also apply to the national transport operations referred to in paragraph 1.

Article 6

Member States may require documentary proof that the national transport operations referred to in Article 5 follow on from a transport operation between two Member States.

Article 7

Member States shall, in due course, after consulting the Commission adopt the measures necessary to implement this Regulation.

Article 8

This Regulation shall enter into force on 1 July 1986.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Proposal for a Council Directive on the prevention of environmental pollution by asbestos

(COM(85) 632 final

(Submitted by the Commission to the Council on 6 December 1985)

(85/C 349/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas the 1973 (1), 1977 (2) and 1983 (3) action programmes of the European Communities emphasize the importance of preventing and reducing environmental pollution;

Whereas the 1973 action programme of the European Communities on the environment places asbestos among the first-category pollutants to be investigated on the grounds of their toxicity and of their serious effects on health;

Whereas Council Directive 84/360/EEC (4) lays down provisions on the combating of air pollution from industrial plants;

Whereas Council Directive 76/769/EEC (5), as amended by Directive 83/478/EEC (6), lays down provisions restricting the marketing and use of crocidolite and products containing crocidolite fibres and special provisions concerning the labelling of products containing asbestos;

Whereas Council Directive 83/477/EEC (7) lays down provisions on the protection of workers from the risks related to exposure to asbestos at work;

Whereas the most effective way of reducing environmental pollution by asbestos is to restrict emissions of this pollutant into the various environments and to introduce other preventive measures, in particular the recycling of asbestos discharges and wastes, based on the use of the best available technology not involving excessive costs;

Whereas waste containing or contaminated by asbestos in the form of dust and fibres is considered to be toxic and dangerous and accordingly falls within the scope of Council Directives 78/319/EEC of 20 March 1978 on toxic and dangerous waste (8), 75/442/EEC of 15 July 1975 on waste (9) and 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the trans-frontier shipment of hazardous waste (10);

Whereas disparities between the provisions in force or being amended in the Member States as regards the control of pollution from industrial plants can create unequal conditions of competition and thereby directly affect the functioning of the common market, and it is therefore necessary to approximate legislation in this field pursuant to Article 100 of the Treaty;

Whereas reducing pollution by asbestos serves to further one of the Community's objectives regarding the protection and improvement of the environment, but specific powers for this purpose are not expressly provided for in the Treaty and Article 235 must therefore also be invoked,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The objective of this Directive is to prevent environmental pollution by asbestos elsewhere than at places of work.

Article 2

1. This Directive:

— lays down limit values for the volume of and concentration of suspended matter in aqueous effluent arising from certain activities in which asbestos is used,

— lays down limit values for the emission of asbestos fibres into the air,

— lays down provisions and supplements provisions already adopted for the prevention of environmental pollution caused by:

  — the working of products containing asbestos,

  — the demolition of buildings, structures and other objects containing asbestos,

  — the processing, transport and disposal of sludge and waste containing asbestos.

2. This Directive shall be applied without prejudice to the provisions laid down by Directive 83/477/EEC with regard to safety and health at work.

Article 3

For the purposes of this Directive:

1. *'Asbestos'* means the following fibrous silicates:

  — crocidolite, CAS (Chemical Abstract Service) No 1200-28-4,

  — actinolite, CAS No 77536-66-4,

  — antophyllite, CAS No 77536-67-5,

  — chrysotile, CAS No 12001-29-5,

  — amosite, CAS No 12172-73-5,

  — tremolite, CAS No 77536-68-6.

2. *'The use of asbestos'* means:

  activities involving the handling of 100 kg of crude asbestos or more per year, comprising the extraction or dressing of ores, the use of crude asbestos either for

(1) OJ No C 112, 20. 12. 1973, p. 3.
(2) OJ No C 139, 13. 6. 1977, p. 1.
(3) OJ No C 46, 17. 2. 1983, p. 1.
(4) OJ No L 188, 16. 7. 1984, p. 20.
(5) OJ No L 262, 27. 9. 1976, p. 201.
(6) OJ No L 263, 24. 9. 1983, p. 33.
(7) OJ No L 263, 24. 9. 1983, p. 25.
(8) OJ No L 84, 31. 3. 1978, p. 43.
(9) OJ No L 194, 25. 7. 1975, p. 47.
(10) OJ No L 326, 13. 12. 1984, p. 31.

processing or for incorporation into products in order to confer particular properties on them, or in order to treat products in some way without incorporating the asbestos into them.

3. *'The working of products containing asbestos'* means:

activities taking place elsewhere than in facilities for the manufacture of products containing asbestos which are liable to release dust or fibres into the environment.

4. *'Waste'* means:

any substance or object as defined in Article 1 of Directive 75/442/EEC.

Article 4

Member States shall take the measures necessary to ensure that aqueous effluent, emmissions into the air and solid waste arising from the use of asbestos are reduced at source as far as possible, or recycled or treated, using the best available technology not involving excessive costs.

Article 5

Without prejudice to Article 3, Member States shall take the measures necessary to ensure that when asbestos is used the concentration of asbestos in discharges into the air does not exceed the limit value of 0,1 mg/m³ (milligrams of asbestos per m³ of air discharged).

Article 6

Member States shall take the measures necessary to ensure:

1. that without prejudice to Article 4 and where total recyling is not technically and economically feasible, the following limit values for aqueous effluent from the manufacture of asbestos-cement are complied with:

   — 30 g of suspended matter per m³ of aqueous effluent discharged,

   — 0,7 m³ of effluent discharged per tonne of asbestos-cement produced.

   The abovementioned discharge limit values shall apply at the point immediately before discharge into surface waters or into a public drainage system;

2. that all aqueous effluent arising in the manufacture of asbestos paper is recycled.

Article 7

1. Member States shall take the measures necessary to ensure that measurements are taken at regular intervals of discharges of aqueous effluent and emissions into the air from facilities where activities take place in which asbestos is used.

2. For the purposes of checking compliance with the limit values provided for in Articles 5 and 6, the sampling and analysis procedures and methods shall be in conformity with those described in the Annex or with any other procedure or method which gives equivalent results.

Article 8

Member States shall take the measures necessary to ensure:

— that without prejudice to the safety instructions set out in Annex II (5) to Directive 76/769/EEC, activities involving the working of products containing asbestos do not cause environmental pollution,

— that the demolition of buildings, structures and other objects containing asbestos does not cause environmental pollution; to that end they shall satisfy themselves that the plan of work provided for in Article 12 of Directive 83/477/EEC also prescribes all the necessary preventive measures to this end.

Article 9

Member States shall take the measures necessary to ensure:

— that in the course of transport of waste containing asbestos no asbestos fibres or dust are released into the air and no liquids which may contain asbestos fibres are spilled,

— that waste containing asbestos dumped at a licensed tip shall be covered with a layer of earth at least 20 cm thick not more than two days after being dumped.

Article 10

1. For the purposes of Articles 8 and 9, Member States shall as far as possible base their measures on existing codes of practice in so far as such codes are in line with the objective of this Directive.

2. In accordance with the procedure described in Article 15, the Commission shall, if necessary, adopt Community codes of practice.

Article 11

A Member State may, in order to protect health and the environment, introduce provisions which are more stringent than those of this Directive.

Article 12

The application of this Directive may in no event have the effect of allowing the emission standards currently in force in the Member States to be exceeded where the latter are more stringent.

Article 13

The procedure provided for in Articles 14 and 15 for the adaptation of this Directive to technical progress shall also be followed for the definition of the methods of sampling and analysis mentioned in the Annex.

Article 14

A Committee for the adaptation of this Directive to scientific and technical progress, hereinafter called 'the Committee', consisting of representatives of the Member States and chaired by a representative of the Commission, is hereby set up.

The Committee shall draw up its rules of procedure.

Article 15

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee by its chairman, either on his own initiative or at the request of the representative of a Member State.

2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit set by the chairman having regard to the urgency of the matter. It shall act by a majority of 14 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged where they are in accordance with the opinion of the Committee.

Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit a proposal to the Council concerning the measures to be adopted. The Council shall act by a qualified majority.

If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 16

Member States shall supply the Commission, at its request, with all necessary information, and in particular the results of measurements carried out pursuant to this Directive.

Article 17

On the basis of the information supplied pursuant to Article 16, the Commission shall from time to time make a comparative assessment of the application of this Directive by Member States.

Article 18

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1987. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 19

This Directive is addressed to the Member States.

ANNEX

METHODS OF SAMPLING AND ANALYSIS

A. **Discharges of aqueous effluent**

A gravimetric method will be used for measuring suspended matter.

B. **Emissions into the air**

The reference method and procedure for sampling and analysis will be specified on the basis of the international standard now being defined by the ISO working group (ISO/TC1/46/SC1-WG 1) N 16.

Amendment to the proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector (1)

COM(85) 754 final

(Submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty on 6 December 1985)

(85/C 349/05)

The Commission's proposal of 7 August 1985 in document COM(85) 433 final is amended pursuant to the second paragraph of Article 149 of the treaty as follows:

I. *The fifth recital is replaced by the following:*

'Whereas the main objective of the provisions of Article 28 of Regulation (EEC) No 1785/81 is to cover from financial contributions by producers all the losses due to the disposal of Community production surpluses; whereas an assessment of world market prices over the last ten years and of prospects for this market in the next five years, having due regard to the cyclical character of the trend, justifies the maintenance of the ceilings of the levies applicable since the 1981/82 marketing year; whereas, none the less, to make it more certain in the future that the said objective will be attained, provision should be made to allow review, where appropriate, of the provisions of the said Article 28;

Whereas, to enable all actual expenditure relating to the export of Community production surpluses in respect of 1981/82 to 1985/1986 to be covered without affecting the application of the self-financing system during the 1986/87 to 1990/91 marketing years, provision should also be made for the introduction of an elimination levy; whereas to establish this levy as fairly as possible, it should be applied over a period of five marketing years, differentiated according to production regions, within the meaning of Article 24 (2) of Regulation (EEC) No 1785/81, having due regard to contributions paid in the past by planters of beet and cane and producers of sugar and isoglucose, taken as a whole and to foreseeable effective production in these same regions;

Whereas, in view of the nature of the elimination levy, it should not be applied to production regions in Portugal and Spain;'.

II. *Point 1 in Article 1 is deleted.*

III. *Point 8 in Article 1 is replaced by the following:*

'8. In Article 28 (2),

"2. Before the end of each . . . the year of recording:" is replaced by:

"2. Before the end of each of the marketing years 1987/88 to 1990/91, there shall be recorded cumulatively for the marketing years 1986/87 to 1989/90 which precede the marketing year of recording:".'

IV. *Point 9 in Article 1 is deleted.*

V. *Point 10 in Article 1 is replaced by the following:*

'10. The following third and fourth subparagraphs are added to Article 28 (5):

"According to the procedure referred to in the second subparagraph, the Council may decide that some or all of the losses resulting from payment of production refunds referred to in Article 9 (3) shall be taken into account for the establishment of the overall loss referred to in paragraph 1 (e) of this Article.

Where necessary, to achieve the objective of this Article, the Council shall review, before the end of the 1988/89 marketing year, according to the

(1) OJ No C 219, 29. 8. 1984, p. 4.