



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 March 2012

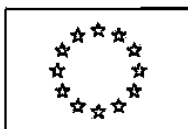
8304/12

**Interinstitutional File:
2011/0356 (COD)**

**ENT 77
MI 219
CONSOM 45
CODEC 869
COMPET 189**

NOTE

from:	General Secretariat of the Council
to:	Working Party on Technical Harmonisation
No. Cion prop.:	17275/11 ENT 258 MI 596 CONSOM 187 CODEC 2127 COMPET 543
Subject:	New Legislative Framework Alignment Package (Implementation of the Goods Package) - Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres - Opinion of the Consultative Working Party of Legal Services



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, 27 MARS 2012

OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

**Proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres
COM(2011) 772 final of 21.11.2011 - 2011/0356 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 1 March 2012 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres resulted in the Consultative Working Party's establishing, by common accord, as follows.

1) As far as the explanatory memorandum is concerned, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii) of that agreement.

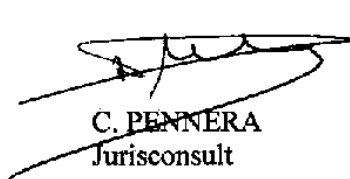
2) In the recast text, the following should have been identified by using the grey-shaded type generally used for marking substantive changes:

- in Article 13(6), the proposed replacement of the words *"one of the official languages of the Member States in which those procedures are being applied or in a language accepted by the notified body"* with the words *"a language easily understood by end-users, as determined by the Member State concerned"*.

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

- in Article 41(1), first subparagraph, the words "*Article 2(2) and (10) to (26), Article 3, Articles 5 to 40 and Annexes III to IX*", as well as the entire text of the final sentence which reads as follows: "*They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive*";
- in Article 41(1), second subparagraph, the words "*from [day after the date mentioned in first subparagraph]*";
- in point 1.0.6(b) of Annex II, the proposed replacement of the words "*one of the Community languages*" with the words "*a language easily understood by end-users, as determined by the Member State concerned*".

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.



C. PENNERA
Jurisconsult



H. LEGAL
Jurisconsult



L. ROMERO REQUENA
Director General