

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0289/2006

19.9.2006

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council
on the placing on the market of pyrotechnic articles
(COM(2005)0457 – C6-0312/2005 – 2005/0194(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Joel Hasse Ferreira

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	37
ANNEX: RESTRICTIONS ON THE SALE OF FIREWORKS TO CONSUMERS BY AGE AND TIME OF YEAR THEY MAY BE SOLD OR USED.....	40
OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY	44
PROCEDURE.....	63

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the placing on the market of pyrotechnic articles
(COM(2005)0457 – C6-0312/2005 – 2005/0194(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0457)¹,
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0312/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A6-0289/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 1

(1) The laws, regulations and administrative provisions in force in the Member States with regard to the placing on the market **and use** of pyrotechnic articles are different, in particular as regards aspects such as safety and performance characteristics.

(1) The laws, regulations and administrative provisions in force in the Member States with regard to the placing on the market of pyrotechnic articles are different, in particular as regards aspects such as safety and performance characteristics.

Justification

This is also a linguistic amendment to the German version (changing the word 'Erzeugnis' to 'Gegenstand'), applicable throughout the proposal for a directive. This change does not affect the English version.

¹ Not yet published in OJ.

Amendment 2
Recital 2

(2) These provisions, being liable to cause barriers to trade within the Community should be harmonised in order to guarantee the free movement of pyrotechnical articles within the internal market whilst ensuring a high level of protection of human health and safety of consumers.

(2) These provisions, being liable to cause barriers to trade within the Community should be harmonised in order to guarantee the free movement of pyrotechnical articles within the internal market whilst ensuring a high level of protection of human health and safety of consumers ***and professional end users.***

Justification

Fireworks for professional use (category 4) constitute around half the total EU market for fireworks and the majority of EU fireworks production. Safety of professional users is therefore also of the utmost importance.

Amendment 3
Recital 4 a (new)

(4a) Pyrotechnic articles include, inter alia, fireworks, theatrical pyrotechnic articles and pyrotechnic articles for technical purposes, such as gas generators used in airbags on in seatbelt pretensioners etc.

Justification

To provide a non-exhaustive list of examples of the products covered by this Directive in order to better clarify the scope.

Amendment 4
Recital 4 b (new)

(4b) This Directive should not apply to pyrotechnic articles to which Council Directive 96/98/EC of 20 December 1996 on marine equipment¹ and the relevant international conventions apply, in accordance with Article 1 and Article 3(3) of that Directive.

¹ OJ L 46, 17.2.1997, p. 25.

Justification

For the sake of greater clarification about the exclusion of marine equipment as provided for in Article 1, paragraph 4, indent 2 of the Directive.

Amendment 5
Recital 5

(5) In order to ensure appropriately high levels of protection, pyrotechnic articles should be categorised according to their type of use, ***or their purpose and level of hazard.***

(5) In order to ensure appropriately high levels of protection, pyrotechnic articles should be categorised ***primarily*** according to ***their level of hazard as regards*** their type of use, purpose ***or sound level.***

Justification

There is a need to specify the aspects which determine the level of hazard vis-à-vis consumers since the Directive refers to the placing on the market rather than manufacture and storage of pyrotechnic articles.

Amendment 6
Recital 5 a (new)

(5a) The natural or legal person who imports a product into the Community should assume all obligations of the manufacturer in order to avoid counterfeit products being put on the market.

Justification

In view of the fact that the vast majority of fireworks on the EU market are imported from China and that authorised representatives may be easily replaced, the importer shall assume the responsibility of the manufacturer and thus ensure that the product complies with the essential safety requirements and that the appropriate conformity assessment procedure has been applied in order to avoid counterfeit products being placed on the market.

Amendment 7
Recital 5 b (new)

(5b) According to the principles of the Council Resolution of 7 May 1985 on a new approach to technical harmonization and standards¹, a pyrotechnic product should comply with this Directive when it is placed on the Community market for the first time. In view of religious, cultural and traditional festivities in the Member States, fireworks built by the manufacturer for his or her own use in the territory where they are produced are not considered as being placed on the market and do not therefore need to comply with this Directive.

¹ OJ C 136, 4.6.1985, p. 1.

Amendment 8
Recital 6

(6) Given the dangers inherent in the use of pyrotechnic articles, it is appropriate to lay down age limits for their sale to consumers and their use, and to ensure that their labelling displays sufficient and appropriate information on safe use, in order to protect human health and safety and the environment. Provision should be made for certain pyrotechnic articles to be made available only to authorised specialists with the necessary knowledge, skills and experience.

(6) Given the dangers inherent in the use of pyrotechnic articles, it is appropriate to lay down age limits for their sale to consumers and their use, and to ensure that their labelling displays sufficient and appropriate information on safe use, in order to protect human health and safety and the environment. Provision should be made for certain pyrotechnic articles to be made available only to authorised specialists with the necessary knowledge, skills and experience. ***With regard to pyrotechnic articles for vehicles, labelling requirements should take into account current practice and the fact that these articles are supplied exclusively to commercial users.***

Justification

In the vehicle component supply industry, pyrotechnic articles are sold to commercial users (vehicle manufacturers and their authorised workshops). In accordance with Directive 91/155/EEC, deliveries are accompanied by safety data sheets containing the information called for in Article 12 of the Commission proposal, and additional data. There is no need, therefore, to repeat the instructions regarding these articles and their packaging.

Amendment 9
Recital 12

(12) European harmonised standards are drawn up, adopted and modified by the Committee for European Standardisation (CEN), the Committee for Electro-technical Standardisation (CENELEC) and the European Telecommunication Standards Institute (ETSI). These organisations are recognised as competent for the adoption of harmonised standards, which they draw up in accordance with the general guidelines for co-operation between themselves and the Commission, and with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

(12) European harmonised standards are drawn up, adopted and modified by the Committee for European Standardisation (CEN), the Committee for Electro-technical Standardisation (CENELEC) and the European Telecommunication Standards Institute (ETSI). These organisations are recognised as competent for the adoption of harmonised standards, which they draw up in accordance with the general guidelines for co-operation between themselves and the Commission, and with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations. ***With regard to pyrotechnic articles for vehicles, the international orientation of the European vehicle supply industry should be reflected by taking into account the relevant international ISO standards.***

Justification

The European vehicle supply industry sells its products throughout the world. By taking into account international ISO standards, we can ensure competitiveness. Tests that are necessary for vehicle component suppliers to meet international delivery conditions should not be repeated. This practice is also in line with the recommendations of the High-Level Group CARS 21.

Amendment 10
Recital 12 a (new)

(12a) According to the New Approach to technical harmonisation and standardisation, pyrotechnic articles manufactured in compliance with harmonised standards benefit from a presumption of conformity with the essential safety requirements provided for in this Directive. Furthermore, the application of harmonised standards or other standards remains voluntary and

the manufacturer or the importer could apply other technical specifications to meet the requirements.

Justification

For the sake of greater legal certainty and clarity about the principles of the New Approach, on which the present draft Directive is based.

Amendment 11
Recital 13 a (new)

(13a) For testing purposes, groups of pyrotechnic articles that are, for example similar in design, function or behaviour but different in colour should be assessed by the notified bodies as product families if those articles are considered sufficiently similar.

Amendment 12
Recital 14

(14) ***Pyrotechnic*** articles ***should*** bear ***the*** CE marking indicating their conformity with the provisions of this Directive to enable them to move freely within the Community.

(14) ***In order to be placed on the market, pyrotechnic*** articles ***should*** bear ***a*** CE marking indicating their conformity with the provisions of this Directive to enable them to move freely within the Community.

Amendment 13
Recital 14 a (new)

(14a) According to the New Approach to technical harmonisation and standardisation, a safeguard clause procedure is necessary to allow the possibility for contesting the conformity of a pyrotechnic article or failures or shortcomings of harmonised standards. Accordingly, Member States are obliged to take all appropriate measures to prohibit or restrict the placing on the market of products bearing the CE

marking or to withdraw them from the market if these products endanger the health and safety of consumers when the products are used for their intended purpose.

Justification

For the sake of greater legal certainty and clarity about the principles of the New Approach, on which the present draft Directive is based. Thus, the New Approach Directives include a form of safeguard clause, which obliges Member States to restrict or forbid the placing on the market of dangerous or non compliant products, or to have them withdrawn from the market.

Amendment 14

Recital 15

(15) *As* regards safety in transportation, the rules concerning the transport of pyrotechnic articles are covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods.

(15) ***This Directive should not have any effect as*** regards safety in transportation, ***since*** the rules concerning the transport of pyrotechnic articles are covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods.

Justification

The relevant Community or national legislation, as appropriate, shall continue to apply as regards safety in the manufacture, storage and handling by professionals in the automotive industry or for pyrotechnic displays.

Amendment 15

Recital 16 a (new)

(16a) It is in the interests of the manufacturer and the importer to supply safe products in order to avoid liability costs for defective products causing damage to individuals and private property. In this regard, Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products¹ complements this

Directive, since that Directive imposes a strict liability regime on manufactures and importers and ensures an adequate level of protection for consumers. Furthermore, this Directive provides that notified bodies should be adequately insured in respect of their professional activities, unless their liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the tests.

¹ OJ L 210, 7.8.1985, p. 29. Directive as amended by Directive 1999/34/EC (OJ L 141, 4.6.1999, p. 20).

Justification

For the sake of greater legal certainty and coherence with other Community instruments. Thus, the Directive on product liability is applicable to all products covered by the New Approach Directives. Consequently, this draft Directive and the Directive on product liability are complementary elements in ensuring an adequate level of protection.

Amendment 16

Recital 17

(17) It is vital to provide for a transitional period to allow national laws in specified fields to be gradually adapted.

(17) It is vital to provide for a transitional period to allow national laws in specified fields to be gradually adapted.
Manufacturers and importers need to be given time to exercise any rights under national rules in force before the entry into force of this Directive, for example, to sell their stocks of manufactured products. Furthermore, the specific transitional period provided for in this Directive would allow extra time for the adoption of harmonised standards and ensure the speedy implementation of this Directive so as to enhance the protection of consumers.

Justification

This extra time for the implementation of the provisions for fireworks allows manufactures and importers to exercise any rights they have acquired under the national rules in force

before this Directive. At the same time, this transitional period guarantees a fast implementation of this Directive in order to better protect the health and safety of consumers. Furthermore, this transitional period provides sufficient time for the adoption of harmonised standards.

Amendment 17
Article 1, paragraph 4, indent 1

- Pyrotechnic articles intended for use, in accordance with national law, by the armed forces **or** the police;

- Pyrotechnic articles intended for **non commercial** use, in accordance with national law, by the armed forces, the police **or fire departments**;

Justification

Fireworks used for training and specialist use should be exempted from this Directive.

Amendment 18
Article 1, paragraph 4, indent 3

– Pyrotechnic articles intended for use in **aircraft**;

– Pyrotechnic articles intended for use in **the aerospace industry**;

Justification

Pyrotechnic articles intended for use in aircrafts and spacecrafts should not be covered by this Directive given that the industry applies very high internal safety standards and that therefore there is no need to adopt harmonised standards for these products.

Amendment 19
Article 1, paragraph 4, indent 4

- **Pyrotechnic** articles falling within the scope of Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys;

- **Percussion caps intended specifically for toys and other** articles falling within the scope of Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys;

Justification

With its current wording, the Directive would be applicable to percussion caps designed to be used with toys which are already subject to the Directive concerning the safety of toys.

Amendment 20
Article 1, paragraph 4, indent 6

– Ammunitions, meaning projectiles and propelling charges used in ***small arms***, artillery, and other guns.

Ammunitions, meaning projectiles and propelling charges used in ***hand guns***, artillery, and other guns.

Justification

The term ‘small arms’ is defined differently in international agreements. For a clearer distinction, the term ‘hand guns’ should be used.

Amendment 21
Article 2, paragraph 1

1. ‘Pyrotechnic article’ means any article containing substances or ***a*** mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions ***for both entertainment and other purposes***.

1. ‘Pyrotechnic article’ means any article containing ***explosive*** substances or ***an explosive*** mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions.

Amendment 22
Article 2, paragraph 2

2. ‘Placing on the market’ means the first making available on the Community market of an individual product ***intended for end use***, with a view to distribution and/or use, whether in return of payment or free of charge.

2. ‘Placing on the market’ means the first making available on the Community market of an individual product, with a view to distribution and/or use, whether in return of payment or free of charge.
Fireworks built by the manufacturer for own use in the territory where they are produced are not considered as being placed on the market.

Amendment 23
Article 2, paragraph 3 a (new)

(3a) ‘Theatrical pyrotechnic articles’ means pyrotechnics designed for stage use that are electrically or electronically initiated.

See amendment to Article 3, paragraph 1, point (a a) (new)

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 24
Article 2, paragraph 4

4. ‘**Automotive pyrotechnic article**’ means **articles** which contain pyrotechnic substances used to activate **safety devices** or other devices **in motor vehicles**.

4. ‘**Pyrotechnic articles for vehicles**’ means **components of safety devices in vehicles** which contain pyrotechnic substances used to activate **these** or other devices.

Or. de

(This amendment should apply throughout the text)

Justification

Clarification of the text and replacement of ‘automotive’ with ‘for vehicles’, as pyrotechnic articles are not used solely in motorised vehicles.

Amendment 25
Article 2, paragraph 5

5. ‘Manufacturer’ means the natural or legal person who designs and/or manufactures a product covered by this Directive or who has such a product designed and manufactured, with a view to its placing on the market **or for his own professional or private use**, under his own name or trademark; **or places a product covered by this Directive on the market under his own name or trademark**.

5. ‘Manufacturer’ means the natural or legal person who designs and/or manufactures a product covered by this Directive or who has such a product designed and manufactured, with a view to its placing on the market under his own name or trademark.

Justification

Brings the text into line with the definition on ‘placing on the market’, in particular the fact that products built for own use are not considered as being put on the market, and provides a clearer definition in the light of the principles of the New Approach.

Amendment 26
Article 2, paragraph 6

6. ‘**Authorised representative**’ means any natural or legal person established within the Community who *has received a written mandate from the manufacturer to act on his behalf with regard to the latter’s responsibilities under this Directive*.

6. ‘**Importer**’ means any natural or legal person established in the Community who *makes a product originating from a third country available on the Community market for the first time in the course of his business*.

(‘Authorised representative’ should be replaced by ‘importer’ throughout the text)

Justification

In view of the fact that the vast majority of fireworks on the EU market are imported from China and that authorised representatives may be easily replaced, the importer shall assume the responsibility of the manufacturer and thus ensure that the product complies with the essential safety requirements and that the appropriate conformity assessment procedure has been applied in order to avoid counterfeit products being placed on the market.

Amendment 27
Article 2, paragraph 8

8. ‘Person with specialist knowledge’ means a person authorised by Member States to **possess** and/or use on their territory category 4 fireworks and/or category 2 other pyrotechnic articles as defined in Article 3.

8. ‘Person with specialist knowledge’ means a person authorised by Member States to **handle** and/or use on their territory category 4 fireworks, **category 2 theatrical pyrotechnic articles** and/or category 2 other pyrotechnic articles as defined in Article 3.

(See amendment to Article 2, paragraph 3a (new) and to Article 3, paragraph 1, Point (a a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 28
Article 3, paragraph 1, subparagraph 1

1. Pyrotechnic articles falling within the scope of this Directive shall be categorised by the manufacturer according to their type

1. Pyrotechnic articles falling within the scope of this Directive shall be categorised by the manufacturer according to their type

of use, or their purpose and level of hazard. Notified bodies shall confirm the categorisation as part of the conformity assessment procedures according to Article 9.

of use, or their purpose and level of hazard, ***including noise level***. Notified bodies shall confirm the categorisation as part of the conformity assessment procedures according to Article 9.

Amendment 29

Article 3, paragraph 1, point (a), category 1

Category 1: fireworks which present a very low hazard and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings;

Category 1: fireworks which present a very low hazard ***and negligible noise level*** and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings;

Amendment 30

Article 3, paragraph 1, point (a), category 2

Category 2: fireworks which present a low hazard and which are intended for outdoor use in confined areas;

Category 2: fireworks which present a low hazard ***and low noise level*** and which are intended for outdoor use in confined areas;

Amendment 31

Article 3, paragraph 1, point (a), category 3

Category 3: fireworks which present a medium hazard and which are intended for outdoor use in large open areas;

Category 3: fireworks which present a medium hazard and which are intended for outdoor use in large open areas. ***The noise level of these articles shall not be harmful for human health;***

Amendment 32

Article 3, paragraph 1, point (a), category 4

Category 4: fireworks which present a high hazard and which are intended for use by persons with specialist knowledge only, commonly known as “fireworks for professional use”.

Category 4: fireworks which present a high hazard and which are intended for use by persons with specialist knowledge only, commonly known as “fireworks for professional use”. ***The noise level of these articles shall not be harmful for human health.***

Amendment 33
Article 3, paragraph 1, point (a a) (new)

(aa) Theatrical pyrotechnic articles

Category 1: pyrotechnic articles for stage use which present a low hazard;

Category 2: pyrotechnic articles for stage use which are intended for use by persons with specialist knowledge only.

(See amendment to Article 2, paragraph 3 a (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 34
Article 3, paragraph 1, point (b)

(b) Other pyrotechnic articles

Category 1: pyrotechnic articles other than fireworks which present a low hazard;

Category 2: pyrotechnic articles other than fireworks which are intended for handling or use by persons with specialist knowledge only.

(b) Other pyrotechnic articles

Category 1: pyrotechnic articles other than fireworks ***and theatrical pyrotechnic articles*** which present a low hazard;

Category 2: pyrotechnic articles other than fireworks ***and theatrical pyrotechnic articles*** which are intended for handling or use by persons with specialist knowledge only.

(See amendment to Article 2, paragraph 3 a (new) and to Article 3, paragraph 1, Point (a a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 35

Article 4, paragraph 2

2. Manufacturers of pyrotechnic articles shall be established in the Community or appoint an authorised representative.

The authorised representative may be addressed by authorities and bodies in the Community **instead of the manufacturer** with regard to those obligations **that the representative has been mandated to carry out.**

2. If the manufacturer is not established in the Community, the importer of the pyrotechnic articles shall assume all obligations of the manufacturer under this Directive.

The importer may be addressed by authorities and bodies in the Community with regard to those obligations.

Justification

In view of the fact that the vast majority of fireworks on the EU market are imported from China and that authorised representatives may be easily replaced, the importer shall assume the responsibility of the manufacturer and thus ensure that the product complies with the essential safety requirements and that the appropriate conformity assessment procedure has been applied in order to avoid counterfeit products being placed on the market

Amendment 36
Article 5, paragraph 1

Member States shall take all appropriate measures to ensure that pyrotechnic articles which fall within the scope of the present Directive may be placed on the market only if they comply with the obligations of this Directive, they bear the **EC** marking, and they comply with the obligations relating to the conformity assessment.

Member States shall take all appropriate measures to ensure that pyrotechnic articles which fall within the scope of the present Directive may be placed on the market only if they comply with the obligations of this Directive, they bear the **CE** marking, and they comply with the obligations relating to the conformity assessment.

Justification

Technical amendment

Amendment 37
Article 6, paragraph 2

2. The provisions of this Directive shall also not preclude measures by a Member State which are justified on grounds of public security **or** safety to restrict the use

2. The provisions of this Directive shall also not preclude measures by a Member State which are justified on grounds of public security, safety, **noise or nuisance**

and/or the sale to the general public of category 2 and 3 fireworks.

to restrict the use and/or the sale to the general public of category 2 and 3 fireworks **and category 1 theatrical pyrotechnic articles**.

(See amendment to Article 2, paragraph 3 a (new) and to Article 3, paragraph 1, point (a a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 38 Article 6, paragraph 3

3. At trade fairs, exhibitions and demonstrations for marketing purposes, Member States shall not prevent the showing of pyrotechnic articles not in conformity with the provisions of this Directive, provided that a visible sign clearly indicates **their** non-conformity and **their** non-availability for sale until brought into conformity by the manufacturer **or by his authorized representative** established within the Community. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned in order to ensure the safety of persons.

3. At trade fairs, exhibitions and demonstrations for marketing purposes, Member States shall not prevent the showing **and use** of pyrotechnic articles not in conformity with the provisions of this Directive, provided that a visible sign clearly indicates **the name and date of the trade fair, exhibition or demonstration in question and the** non-conformity and non-availability for sale **of the articles** until brought into conformity by the manufacturer established within the Community **or by the importer**. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned in order to ensure the safety of persons.

Amendment 39 Article 6, paragraph 4

4. Member States shall not prevent the free movement and use of **automotive** pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with the provisions of this Directive,

4. Member States shall not prevent the free movement and use of pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with the provisions of this Directive, provided that a visible sign

provided that a visible sign clearly indicates their non-conformity and their non-availability for sale.

clearly indicates their non-conformity and their non-availability for sale.

Justification

To better adapt the text to the products covered by this Directive

Amendment 40

Article 7, paragraph 1, point (b), title

b) Other pyrotechnic articles

b) Other pyrotechnic articles ***and theatrical pyrotechnic articles***

(See amendment to Article 2, paragraph 3 a (new) and to Article 3, paragraph 1, point (a a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 41

Article 7, paragraph 3, point (b)

b) Other pyrotechnic articles of category 2.

(b) Other pyrotechnic articles ***and theatrical pyrotechnic articles*** of category 2.

(See amendment to Article 2, paragraph 3 a (new) and to Article 3, paragraph 1, point (a a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 42

Article 8, paragraph 1

1. The Commission may, in accordance with the procedures laid down by Directive

1. The Commission may, in accordance with the procedures laid down by Directive

98/34/EC, request the European standardisation bodies to draw up or revise European standards in support of this Directive.

98/34/EC, request the European standardisation bodies to draw up or revise European standards in support of this Directive ***or encourage relevant international bodies to draw up or revise international standards.***

Justification

The European automotive supply industry sells its products world wide. International ISO standards are preferred to maintain competitiveness. This in line with the recommendations of the High Level Group CARS 21.

Amendment 43

Article 8, paragraph 3, subparagraph 1

3. Member States shall consider pyrotechnic articles falling within the scope of this Directive which comply with the relevant ***harmonised standards, the references of which have been published in the Official Journal of the European Union, to be in conformity with the essential safety requirements referred to in Article 4(1).***

3. Member States shall acknowledge and adopt the harmonised standards published in the Official Journal of the European Union. Member States shall consider pyrotechnic articles falling within the scope of this Directive which comply with the relevant ***national standards transposing the harmonised standards published in the Official Journal of the European Communities to be in conformity with the essential safety requirements referred to in Article 4(1). Member States shall publish the references of the national standards transposing those harmonised standards.***

Justification

This text corresponds to Article 4(1) of Directive 93/15/EEC and should therefore be adapted to this article.

Amendment 44

Article 8, paragraph 4

4. Where a Member State or the Commission considers that the harmonised standards referred to in this Article do not fully satisfy the essential safety requirements referred to in Article 4(1), the Commission or the Member State concerned shall bring the matter before the Standing Committee

4. Where a Member State or the Commission considers that the harmonised standards referred to in this Article do not fully satisfy the essential safety requirements referred to in Article 4(1), the Commission or the Member State concerned shall bring the matter before the Standing Committee

set up by Directive 98/34/EC, giving its reasons. The Committee shall deliver its opinion ***without delay***. In the light of the Committee's opinion the Commission shall inform the Member States of the measures to be taken regarding the harmonised standards and the publication referred to in paragraph 2.

set up by Directive 98/34/EC, giving its reasons. The Committee shall deliver its opinion ***within six months of this referral***. In the light of the Committee's opinion the Commission shall inform the Member States of the measures to be taken regarding the harmonised standards and the publication referred to in paragraph 2.

Justification

A situation where the Commission or a Member State has too long a period of time to question a harmonised standard is not viable for the industry, which needs a specific timeframe.

Amendment 45

Article 9, paragraph 1, point (b a) (new)

(ba) the full product quality assurance procedure (Module H) referred to in Annex II, point 6a, insofar as it concerns fireworks of category 4 and theatrical pyrotechnic articles of category 2.

Justification

For fireworks and theatrical pyrotechnic articles which are used by persons with specialist knowledge (category 4 of fireworks and category 2 of theatrical pyrotechnic articles), the manufacturer or the importer may follow the procedure referred to in new Module H.

Amendment 46

Article 10, paragraph 1

1. Member States shall inform the Commission and the other Member States of the bodies which they have appointed to carry out the procedures for assessing the conformity referred to in Article 9 together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 47
Article 10, paragraph 4 a (new)

4a. If the notification of a body is withdrawn, the attestations of conformity and the related documents provided by the body in question shall remain valid unless it is established that there is an imminent and direct risk to health and safety.

Justification

Manufacturers should not be obliged to carry out a conformity assessment procedure all over again.

Amendment 48
Article 10, paragraph 4 b (new)

4b. The Commission shall publish on its website the withdrawal of the notification of the body in question.

Justification

This will ensure that all concerned have access to up-to-date information.

Amendment 49
Article 11, paragraph 1

1. After having completed the conformity assessment successfully according to Article 9, manufacturers shall affix the CE marking, in such a way as to be visible, legible and indelible on the pyrotechnic articles themselves or, if this is not possible, on an identification plate attached thereto or, ***in the last resort, if the first two methods cannot be used***, on the packaging. The identification plate must be so designed as to make its reuse impossible.

1. After having completed the conformity assessment successfully according to Article 9, manufacturers shall affix the CE marking, in such a way as to be visible, legible and indelible on the pyrotechnic articles themselves or, if this is not possible, on an identification plate attached thereto or on the packaging. The identification plate must be so designed as to make its reuse impossible.

Justification

In line with a practice that has been in place for years and is set out under the rules on series EN 14035, it has proved worthwhile in the case of smaller articles to attach the identification to the packaging. In the same way, the CE marking should be attached to the article, an identification plate or to the packaging.

Amendment 50 Article 11, paragraph 2

2. *Manufacturers shall not affix on pyrotechnic articles any* marking or inscription which may confuse third persons as to the meaning and form of the CE marking. Any other marking may be affixed on pyrotechnic articles provided the visibility and legibility of the CE marking is not impaired.

2. *Any* marking or inscription which may confuse third persons as to the meaning and form of the CE marking ***shall not be affixed on pyrotechnic articles.*** Any other marking may be affixed on pyrotechnic articles provided the visibility and legibility of the CE marking is not impaired.

Justification

Although this requirement in connection with the placing on the market of articles is addressed to the manufacturer, the wording should be more general in order to prohibit the subsequent affixing of confusing markings.

Amendment 51 Article 12, title

Labelling

Labelling *of articles other than pyrotechnic articles for vehicles*

(See amendment to Article 12 a (new))

Justification

It should be borne in mind that automotive pyrotechnic articles are generally not sold directly to consumers but to professional users (the vehicle manufacturers and their authorised workshops). Therefore, the labelling requirements provided for in this Directive should take this into account as well as other requirements laid down by other Community legislation, in particular, Safety Data Sheets according to Commission Directive 91/155/EEC defining and laying down the detailed arrangements for the system of specific information relating to dangerous preparations in implementation of Article 10 of Directive 89/379/EEC, which accompany the delivery batches of automotive pyrotechnic articles.

Amendment 52

Article 12, paragraph 2

2. The labelling of pyrotechnic articles shall ***state as a minimum***, the name of manufacturer or ***its authorised representative***, the name and type of the article, minimum age limits as indicated in Article 7 paragraphs 1 and 2, the relevant category and instructions for use and, where appropriate, safety distance. ***Labelling shall also refer to the Class/Division (1.1-1.6) of the substance or mixture of substances contained in the article in accordance with the UN/ADR classification scheme or state comparable information on the hazard (mass explosion hazard, projection hazard, blast hazard, fire hazard).***

2. The labelling of pyrotechnic articles shall ***include the CE marking***, the name of ***the*** manufacturer or ***importer***, the name and type of the article, minimum age limits as indicated in Article 7 paragraphs 1 and 2, the relevant category and instructions for use, ***the date of production for category 4 of fireworks*** and, where appropriate, safety distance.

Amendment 53
Article 12, paragraph 3 a (new)

3a. Theatrical pyrotechnic articles shall additionally contain the following minimum information:

Category 1: where appropriate: “for outdoor use only” and minimum safety distance

Category 2: “for use by persons with specialist knowledge only” and minimum safety distance(s)

(See amendment to Article 2, paragraph 3 a (new) and to Article 3, paragraph 1, point (a) (new))

Justification

The Draft Directive should also take due account of these pyrotechnic articles and their specificities, particularly their categorisation, in order for CEN to develop harmonised standards.

Amendment 54
Article 12, paragraph 4

4. If the pyrotechnic article does not provide

4. If the pyrotechnic article does not provide

sufficient space for the labelling requirements referred to in paragraphs 2 and 3, the information shall be provided on the packaging.

sufficient space for the labelling requirements referred to in paragraphs 2 and 3, the information shall be provided on the ***smallest packaging unit sent to the user.***

Justification

To ensure the protection of the user, the labelling should not be placed on the package in which the article is sent but on the smallest piece of packaging sent to the user. If the information is provided on the outside packaging, there is a risk that this will be thrown away before the user has had a chance to see the information.

Amendment 55
Article 12, paragraph 5

5. The provisions of paragraphs 1 to 4 shall not apply to ***fireworks of category 4 and other pyrotechnic articles of category 2 which are being publicly displayed by the manufacturer.***

5. The provisions of paragraphs 1 to 4 shall not apply to ***pyrotechnic articles shown at trade fairs, exhibitions and demonstrations for marketing purposes in accordance with Article 6(3) or manufactured for the purpose of research, development and testing in accordance with Article 6(4).***

Justification

Under Article 6(3) of the directive pyrotechnic articles not in conformity with the directive may be shown at fairs, exhibitions and demonstrations for marketing purposes. Likewise Article 6(4) states that an exception is to be made for pyrotechnic articles produced for the purpose of research, development and testing. This means, accordingly, that these products should not be subject to the labelling requirements.

Amendment 56
Article 12 a (new)

Article 12a

Labelling of pyrotechnic articles for vehicles

1. The labelling of pyrotechnic articles for vehicles shall bear the name of the manufacturer or importer, the name and type of the article, the safety instructions and a CE marking.

2. If the article does not provide sufficient space for the labelling requirements referred to in paragraph 1, the information

shall be provided on the packaging.

Justification

In the vehicle component supply industry, pyrotechnic articles are sold to commercial users (vehicle manufacturers and their authorised workshops). In accordance with Directive 91/155/EEC, deliveries are accompanied by safety data sheets containing the information called for in Article 12 of the Commission proposal, and additional data. There is no need, therefore, to repeat the instructions regarding these articles and their packaging.

Amendment 57

Article 13, paragraph 1 a (new)

1a. Member States shall carry out regular inspections of pyrotechnic articles on entry into their territory and at storage and manufacturing sites.

Justification

To be able to monitor products placed on the market, surveillance authorities shall have the power, competence and resources to regularly visit commercial, industrial and storage premises; to organise random and spot checks; to take samples of products and to subject them to examination and testing and to require all necessary information.

Amendment 58

Article 13, paragraph 2 a (new)

2a. Member States shall inform the Commission about their market surveillance activities.

Justification

National surveillance authorities and the Commission must provide mutual assistance to ensure proper and uniform application of this Directive.

Amendment 59

Article 13, paragraph 3 a (new)

3a. The Commission shall publish on its website the names of products that, pursuant to paragraph 3, are no longer in conformity, are banned or are to be placed

on the market subject to restrictions.

Justification

If groups of pyrotechnic articles are treated as product families, costs for firework manufacturers and importers can be reduced. This will help cut back on bureaucracy and simplify the procedure. The advantage of this arrangement is that all manufacturers are made aware of the possibility of submitting groups of designs to the notified bodies and, therefore, of reducing costs.

Amendment 60
Article 15

1. Where a Member State *has justifiable grounds for believing that a pyrotechnic article is not in conformity with the requirements of this Directive it shall, in the information procedure referred to in Article 13, paragraph 3 and 14, indicate the reasons for its decision and, in particular whether the non-conformity is due to:*

(a) failure to satisfy the essential requirements referred to in Article 4 (1);

(b) incorrect application of the harmonised standards referred to in Article 8;

(c) shortcomings in the harmonised standards themselves referred to in Article 8.

1. Where a Member State *disagrees with measures taken by another Member State pursuant to Articles 13 or 14 or where the Commission considers that such measure is contrary to Community legislation, the Commission shall consult, without delay, all parties concerned, evaluate the measure and take a position as to whether or not the measure is justified. The Commission shall notify its position to the Member States and inform the interested parties.*

If the Commission considers that the national measure is justified, the Member States shall take the necessary measures to ensure that the unsafe product is withdrawn from their national market and inform the Commission thereof.

If the Commission considers that the national measure is unjustified, the Member State concerned shall withdraw it.

2. The Commission shall enter into consultation with the parties concerned without delay. The Commission shall consider, after this consultation, if the measures taken by the Member State are justified or not, and it shall communicate its opinion to the Member State which took the initiative, the other Member States, and the manufacturer or his authorised representative.

3. Where the measures referred to in paragraph 1 are based on a shortcoming in the harmonised standards, the Commission shall refer the matter to the committee instituted by Directive 98/34/EC if the Member State at the origin of the measures maintains its position, and the Commission or the Member State shall initiate the procedure referred to in Article 8.

4. Where a pyrotechnic article does not conform and bears the CE marking, the competent Member State shall take appropriate action against whoever has affixed the marking and shall so inform the Commission. The Commission shall inform the other Member States.

5. The Commission shall ensure that Member States are kept informed of the progress and outcome of the procedure.

3. Where the measures referred to in paragraph 1 are based on a shortcoming in the harmonised standards, the Commission shall refer the matter to the committee instituted by Directive 98/34/EC if the Member State at the origin of the measures maintains its position, and the Commission or the Member State shall initiate the procedure referred to in Article 8.

4. Where a pyrotechnic article does not conform and bears the CE marking, the competent Member State shall take appropriate action against whoever has affixed the marking and shall so inform the Commission. The Commission shall inform the other Member States.

Justification

The Commission should only take a position if there is disagreement. This will free capacities which will enable the Commission to act swiftly if there is disagreement with the proposed measures.

Amendment 61 Article 16, paragraph 1

1. Any measure taken, pursuant to this Directive,
(a) to prohibit or restrict the placing on the market of a product; or
(b) to withdraw a product from the

1. Any measure taken, pursuant to this Directive,
(a) to prohibit or restrict the placing on the market of a product; or
(b) to withdraw a product from the

market, shall state the exact grounds on which it is based. Such measures shall be notified without delay to the party concerned, who shall at the same time be informed of the remedies available to him under the national law in force in the Member State concerned and of the time limits to which such remedies are subject.

market,

shall state the exact grounds on which it is based. Such a measure shall be notified without delay to the party concerned, who shall at the same time be informed of the remedies available to him under the national law in force in the Member State concerned and of the time limits to which such remedies are subject.

Justification

Technical amendment for the sake of greater clarity of the text, since the last paragraph applies to both points (a) and (b).

Amendment 62 Article 17, introductory part

Where necessary, the following measures for the implementation of this Directive shall be adopted in accordance with the procedure referred to in Article 18(2);

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 63 Article 17, indent 3

- The setting up of a register of European Union registration numbers for pyrotechnic articles that will make it easier to identify pyrotechnic articles and their manufacturer or the **authorised representative** in case of accidents through malfunctioning.

- The setting up of a register of European Union registration numbers for pyrotechnic articles that will make it easier to identify pyrotechnic articles and their manufacturer or the **importer** in case of accidents through malfunctioning.

Amendment 64
Article 17, indent 3 a (new)

- The setting up of common criteria for the regular collection and updating of data on accidents related to the use of pyrotechnic articles.

Amendment 65
Article 20, paragraph 1

1. Member States shall adopt and publish, by [...]¹ at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

¹ **18 months** after publication of *the* Directive

1. Member States shall adopt and publish, by [...]¹ at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

¹ **30 months** after *the* publication of *this* Directive.

Justification

Most Member States have complained that the transposition deadlines are too short. They need adequate time to set up notified bodies and to make the adjustments necessary to implement the directive.

Amendment 66
Article 20, paragraph 2

2. They shall apply those provisions by [...]¹ for fireworks and by [...]² for other pyrotechnic articles.

¹ **24 months** after publication of *the* Directive

² **5 years** after the publication of *the* Directive

2. They shall apply those provisions by [...]¹ for fireworks ***of categories 1, 2 and 3*** and by [...]² for other pyrotechnic articles, ***for fireworks of category 4 and for theatrical pyrotechnic articles.***

¹ **3 years** after *the* publication of *this* Directive.

² **6 years** after the publication of *this* Directive.

Amendment 67
Annex II, point 6 a (new)

6a MODULE H: Full quality assurance

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of Section 2 ensures and declares that the products concerned meet the requirements of this Directive that apply to them. The manufacturer or his importer affixes the CE marking to each product and draws up a written declaration of conformity. The CE marking is accompanied by the identification number of the notified body responsible for the checks referred to in Section 4.

2. The manufacturer must operate an approved quality system for design, production, final product inspection and testing as specified in Section 3 and is subject to the checks referred to in Section 4.

3. Quality system

3.1. The manufacturer lodges an application for assessment of his quality system with a notified body.

The application must include:

- all relevant information for the pyrotechnic article category envisaged,***
- the documents concerning the quality system.***

3.2. The quality system must ensure conformity of products with the requirements of this Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documents must permit a consistent interpretation of the quality programmes, plans, manuals and quality records.

It must contain in particular an adequate description of:

- *the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product design and quality;*
- *technical construction specifications including the standards applicable and, if the standards referred to in Article 8 have not been fully applied, the means of ensuring that the relevant basic requirements of the Directive have been met;*
- *techniques to control and assess the development results, processes and systematic actions that will be used to develop products belonging to the product category in question;*
- *the manufacturing, quality control and quality assurance techniques and the processes and systematic actions applied;*
- *the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out;*
- *the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.;*
- *the means of monitoring the achievement of the required design and quality of the product and the effective operation of the quality system.*

3.3 The notified body must assess the quality system to determine whether it satisfies the requirements referred to in section 3.2. It must presume conformity with those requirements in respect of quality systems that implement the relevant harmonised standard.

The auditing team must have at least one member with experience of assessing the relevant product technology. The assessment procedure includes a visit to the manufacturer's premises.

The decision is notified to the manufacturer. The notification must contain the conclusions of the examination and the duly substantiated assessment decision.

3.4. The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and maintain it at an adequate and efficient level.

The manufacturer must keep the notified body that has approved the quality system constantly informed of any proposed update of the quality system.

The notified body must assess the changes proposed and decide whether the altered quality system will still satisfy the requirements referred to in section 3.2 or whether reassessment is required.

It must notify the manufacturer of its decision. The notification must contain the conclusions of the examination and the substantiated assessment decision.

4. EC monitoring under the responsibility of the notified body

4.1 The purpose of EC monitoring is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2 The manufacturer must allow the notified body access for inspection purposes to the manufacturing, inspection, testing and storage premises and provide it with all necessary information, in particular:

- the quality system documents;*
- the quality records required under the quality system for the development field such as the results of analyses, calculations and tests etc.;*
- the quality records required under the quality system for the manufacturing field such as inspection reports and test data, calibration data, qualification reports of*

the personnel concerned, etc.

4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and provides an audit report to the manufacturer.

4.4. Additionally the notified body may pay unannounced visits to the manufacturer. During such visits the notified body may, if necessary, carry out tests or have them carried out to verify that the quality system is functioning correctly. The notified body must provide the manufacturer with a visit report and, if a test has taken place, with a test report.

5. The manufacturer must, for a period of at least 10 years after the last date of manufacture of the product, keep at the disposal of the national authorities:

- the document referred to in the second indent of section 3.1;

- the updating referred to in second paragraph of section 3.4;

- the decisions and reports from the notified body which are referred to in the final paragraph of section 3.4, and in sections 4.3 and 4.4.

6. Each notified body must give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

Justification

For fireworks and theatrical pyrotechnic articles which are used by persons with specialist knowledge (category 4 of fireworks and category 2 of theatrical pyrotechnic articles), the manufacturer or the importer may follow the procedure referred to in new Module H.

EXPLANATORY STATEMENT

1. The Draft Directive and main issues of concern

The aim of this proposal for a directive is to establish rules for the market in fireworks and for vehicle safety equipment which uses pyrotechnic technology. Thus, the objectives of the proposal are essentially to ensure the free movement of pyrotechnic products within the EU, improve the safety of consumers and professionals, contribute to reducing the number and seriousness of accidents, and harmonise safety rules in all the Member States.

The market in pyrotechnic equipment for vehicle safety is estimated to amount to € 5 500 million, and that in fireworks to € 1 400 million. According to 2004 data, 96 % of fireworks on the market are imported from China.

The final text of the directive should clarify the definitions of: ‘pyrotechnic articles’, ‘manufacturer’, and ‘person with specialist knowledge’ (Article 2).

The market in fireworks is characterised by problems related to: the quality of imported products, their safe handling, their conditions of manufacture, and standardisation and specification of the different categories of product. There are a number of controversial issues, notably: definition of a minimum age for handling the articles; individual Member States’ freedom to set rules; specific marketing processes arising from cultural or religious traditions; and the kinds of test to be made on articles in order to ensure quality and safety.

In the economically more important market in safety equipment for the vehicle industry using pyrotechnic technology, the problems are different, as is the need for clarification and better definition. At all events, a single certification procedure for vehicle safety equipment could mark a step forward, and specific labelling could also represent an improvement, facilitating the creation of a true internal market in the Union.

The set of amendments tabled, while not aiming to be exhaustive, is intended to deal with the main aspects needing correction or improvement. It appears desirable explicitly to include under pyrotechnic articles, not only fireworks but also pyrotechnic articles used for theatrical purposes and those used for airbags, for seatbelts and for other vehicle safety equipment.

Concerns arose about the inclusion, under ‘placing on the market’ of fireworks created for personal use, in order to satisfy specific requirement in certain countries or regions. It was also felt important to ensure that the labelling of automotive pyrotechnic articles includes the circumstance of sales being made to professional users. With the same objective, it was found necessary to clarify the concept as such of ‘pyrotechnic article’, and this is reflected in a number of the amendments. The definition of pyrotechnic articles used for theatrical purposes covers all such articles conceived and produced for purposes of entertainment and on-stage use.

It was also found necessary to amend the definition of ‘automotive pyrotechnic articles’, i.e. components of vehicle safety equipment items which contain pyrotechnic substances; to clarify the concepts of manufacturer and importer of pyrotechnic articles; and to table amendments relating to the regular inspection of pyrotechnic articles and their storage. It is essential to ensure the highest possible safety standards for pyrotechnic articles, embracing the stages of manufacture, storage and end-use.

It is also important to understand that there is a new approach to harmonisation.

2. The New Approach to harmonisation

Your Rapporteur wishes to underline that the completion of the internal market for goods could have not been achieved without the adoption of a new regulatory technique, the New Approach to harmonisation, that sets down only the general essential requirements, limiting public intervention to what is essential and leaving business and industry the possible choice of how to meet their public obligations.

This new regulatory technique and strategy was laid down by the Council Resolution of 1985 on the New Approach to technical harmonisation and standardisation, which establishes the following principles:

- Legislative harmonisation is limited to essential requirements that products placed on the Community market must meet, if they are to benefit from free movement within the Community;
- The technical specifications of products meeting the essential requirements set out in the directives are laid down in harmonised standards, which are European standards adopted by private European standard organisations;
- Application of harmonised or other standards remains voluntary, and the manufacturer may always apply other technical specifications to meet the requirements;
- Harmonised standards, the reference numbers of which are published in the Official Journal, are transposed into national standards. This transposition means that the European standards in question must be made available as national standards in an identical way and that all conflicting national standards must be withdrawn in a given period;
- Products manufactured in accordance with a national standard that transposes a harmonised standard benefit from the presumption of conformity with the corresponding essential requirements of the applicable New Approach directive;
- Only products fulfilling the essential requirements may be placed on the market;
- A safeguard clause procedure is necessary to allow the possibility of contesting the conformity of a product, or failures or shortcomings of harmonised standards.

The present Proposal for a Directive on the placing on the market of pyrotechnic articles is fully based and respects the above-mentioned principles of the New Approach. Consequently, this Directive lies down in general terms the health and safety requirements which the pyrotechnic articles must meet.

Furthermore, the present Draft Directive is in line with Directive 93/15/EEC on the

harmonisation of provisions relating to the placing on the market and supervision of explosives for civil uses. While this Directive explicitly excludes pyrotechnic articles from its scope, one of its recitals indicates that additional legislation on pyrotechnic articles is planned.

3. Conclusion

In your Rapporteur's view, harmonisation under the new approach is necessary for placing pyrotechnic articles on the market since Member States have legitimate health and safety interests at stake, which may impede, for the sake of protecting consumers, intra-Community trade. However, this harmonised measure is not exhaustive since it does not preclude more restrictive national rules as far as the minimum age and the marketing and use of certain categories of fireworks are concerned.

All in all, it is hoped that this directive will, after a full debate, provide a set of regulatory standards for the two sectors concerned. The public hearing that was held has made a major contribution towards this, and the analysis of the impact assessment will also be important.

ANNEX: RESTRICTIONS ON THE SALE OF FIREWORKS TO CONSUMERS BY AGE AND TIME OF YEAR THEY MAY BE SOLD OR USED¹

Member State	Minimum Age Restrictions	Time of year restriction
Austria	Category I - (Novelty fireworks and firework toys)- No Restrictions Category II - sale 18 years Category III - (larger fireworks) Special authorisation Category IV – Professional use	No restrictions
Belgium	16 years except for certain specific articles	No restrictions
Cyprus	Essentially a general ban on sales to consumers. Up to discretion of inspector of explosives. Only small sparklers, Christmas crackers and percussion caps sold to consumers.	/
Czech Republic	Class I - No restriction Class II - 18 years Classes III and IV - 18 years	No restrictions
Denmark	Category I - 15 years Category II - 18 years	No restrictions
Estonia	Generally 18 although Division I can sold younger.	Sale and use of bangers prohibited from 01.11 - 30.12.
Finland	12 years least dangerous fireworks 18 majority of fireworks	Sales prohibited from 1-26 December
France	Class I – 8 years Class II and III - 18 years Class IV - Professional, 18 years	No restrictions

¹ Source: European Commission's Consultation Document, Background information on Legislation in the Member States on fireworks, included in Review of Fireworks Policy - Consultation Document, Irish Department of Justice, Equality and Law Reform, March 2005
[http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6AXJGN-en/\\$File/Fireworks.pdf](http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6AXJGN-en/$File/Fireworks.pdf)

Germany	Class I – recommended 12 years Classes II - 18 years Class III - 18 years authorisation required Class IV – Professional	Class II may only be used on 31.12 and 01.01.
Greece	Essentially a general ban on sales to consumers. Special permit required to purchase transport and use	May not be used at Easter
Hungary	Complete ban on consumer sales	/
Ireland	Essentially a general ban on sales to consumers. Importation limited to professionals.	/
Italy	/	/
Latvia	Classes I and II - 16 years.	No restrictions
Lithuania	18 years	Prohibited to sell from 20.01-01.12 unless specialist.
Luxembourg	Class I - No restrictions Classes II and III - 18 years	No restrictions
Malta	/	/
NL	/	/
Poland	/	/
Portugal	18 years	No restrictions
Slovakia	/	/
Slovenia	/	/
Spain	Class I - 8 years Class II - 14 years Class III - 18 years Class IV Professionals only	No restrictions
Sweden	18 Years (for a small number of articles).	/
UK	Categories I, II, and III - 18 years Category IV – Professionals only	No restrictions
Bulgaria	Category I - No restrictions Category II - 18 years	No restrictions

	Categories III and IV – Professional use only	
Romania	18 years	May only be sold between 27.12- 31.12 and used between 31.12 and 01.01.

1.6.2006

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on the Internal Market and Consumer Protection

on the proposal for a directive of the European Parliament and of the Council on the placing on the market of pyrotechnic articles
(COM(2005)0457 – C6-0312/2005 – 2005/0194(COD))

Draftsman: Josu Ortuondo Larrea

SHORT JUSTIFICATION

This proposed Directive deals with the placing on the market and the use of pyrotechnic articles. Those articles consist on the one hand of fireworks and on the other hand of automotive occupant restraint systems (mainly airbags and seat belts pretensioners). The EU market for fireworks is estimated at around € 1 500 million. Automotive occupant restraint systems are placed in approximately 20 million vehicles in the EU each year, which translates into around 80 million airbag systems with a value of some € 3 500 million and around 90 million seat belt pretensioners with a value of approximately € 2 000 million.

Legislation on the marketing and use of pyrotechnic articles (approval system, consumer restriction, labelling, etc.) is currently determined nationally throughout the EU without mutual recognition of test results, leading to a fragmented market with additional costs for producers and importers and accidents resulting from misuse and malfunction.

In this proposal, the Commission suggest to replace the 25 parallel national approval procedures by one single EU directive with harmonised safety requirements (based on the principle ‘tested once, accepted everywhere’). Manufacturers and importers will be obliged to comply with these requirements, which in return will give them the right to affix the CE marking and full access to the internal market as a whole. At the same time, taking into account the variety of different national regulations on the marketing and use of fireworks, the proposal leaves the possibility for Member States to maintain their own regulations as far as the minimum age and the marketing and use of certain categories of fireworks are concerned.

In general, your draftsman welcomes the Commission’s proposal. It is a good example of deregulation and simplification of legislation. The current legal framework is complex and lacks transparency, leading to a considerable administrative burden on enterprises and unnecessary testing costs (of up to € 25.000 per approval). By striving to create a single

market for pyrotechnical articles, the current barriers to trade could be eliminated while ensuring a high level of protection to consumers.

Your draftsman regrets the fact that a truly single market will not be achieved, due to the exceptions made for national regulations on the use and placing on the market of the two main categories of fireworks. However, given the current political spectrum and the different national situations, your draftsman believes that the proposed Directive is a step in the right direction. Never the less, certain amendments could be made in order to make the proposal more workable and in order to create legal certainty.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 Recital 2	
(2) These provisions, being liable to cause barriers to trade within the Community should be harmonised in order to guarantee the free movement of pyrotechnical articles within the internal market whilst ensuring a high level of protection of human health and safety of consumers.	(2) These provisions, being liable to cause barriers to trade within the Community should be harmonised in order to guarantee the free movement of pyrotechnical articles within the internal market whilst ensuring a high level of protection of human health and safety of consumers <i>and professional end users.</i>
Justification <i>Fireworks for professional use (category 4) constitute around half the total EU market for fireworks and the majority of EU fireworks production. Safety of professional users is therefore also of the utmost importance.</i>	
Amendment 2 Recital 5	
(5) In order to ensure appropriately high	(5) In order to ensure appropriately high

¹ Not yet published in OJ.

levels of protection, pyrotechnic articles should be categorised according to their type of use, **or their purpose and level of hazard.**

levels of protection, pyrotechnic articles should be categorised **primarily** according to **their level of hazard as regards** their type of use, purpose **or sound level.**

Justification

There is a need to specify the aspects which determine the level of hazard vis-à-vis consumers since the Directive refers to the placing on the market rather than manufacture and storage of pyrotechnic articles.

Amendment 3 Recital 6

(6) Given the dangers inherent in the use of pyrotechnic articles, it is appropriate to lay down age limits for their sale to consumers and their use, and to ensure that their labelling displays sufficient and appropriate information on safe use, in order to protect human health and safety and the environment. Provision should be made for certain pyrotechnic articles to be made available only to authorised specialists with the necessary knowledge, skills and experience.

(6) Given the dangers inherent in the use of pyrotechnic articles, it is appropriate to lay down age limits for their sale to consumers and their use, and to ensure that their labelling displays sufficient and appropriate information on safe use, in order to protect human health and safety and the environment. Provision should be made for certain pyrotechnic articles to be made available only to authorised specialists with the necessary knowledge, skills and experience. ***With regard to automotive pyrotechnic articles, labelling requirements should take into account current practices and the fact that the automotive supply industry sells those products to professional users.***

Justification

The articles from the automotive supply industry are sold to professional users (the vehicle manufacturers and their authorised workshops). The delivery batches of articles are accompanied by Safety Data Sheets according to Directive 91/155/EEC where you can find the data required by Article 12 of the Commission proposal and a lot of other data. The automotive supply industry does not see the need to repeat them on the articles or their packaging.

Amendment 4 Recital 7

(7) The use of pyrotechnics and in particular

(7) The use of pyrotechnics and in particular

the use of fireworks, is subject to markedly different cultural customs and traditions in different Member States. This makes it necessary to allow Member States to take national measures to limit the use or sale *of certain categories* of fireworks to the general public for public security or safety reasons.

the use of fireworks, is subject to markedly different cultural customs and traditions in different Member States. This makes it necessary to allow Member States to take *specific* national measures to limit the use or sale of *certain* fireworks to the general public for public security or safety reasons.

Amendment 5
Recital 10 a (new)

(10a) Fireworks festivals and competitions are not affected by this Directive, except for those being held for marketing purposes.

Justification

In different Member States fireworks festivals are being held, which is an essential part of their culture and tradition. Therefore, it should be clear that these festivals are not affected by this Directive.

Amendment 6
Recital 11

(11) In order to facilitate the process of demonstrating compliance with the essential safety requirements, harmonised standards are being developed related to the design, ***manufacture*** and testing of such articles.

(11) In order to facilitate the process of demonstrating compliance with the essential safety requirements, harmonised standards are being developed related to the design and testing of such articles.

Justification

The Directive does not concern issues relating to manufacture and nor do the standards.

Amendment 7
Recital 12

(12) European harmonised standards are drawn up, adopted and modified by the Committee for European Standardisation (CEN), the Committee for Electro-technical Standardisation (CENELEC) and the

(12) European harmonised standards are drawn up, adopted and modified by the Committee for European Standardisation (CEN), the Committee for Electro-technical Standardisation (CENELEC) and the

European Telecommunication Standards Institute (ETSI). These organisations are recognised as competent for the adoption of harmonised standards, which they draw up in accordance with the general guidelines for co-operation between themselves and the Commission, and with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

European Telecommunication Standards Institute (ETSI). These organisations are recognised as competent for the adoption of harmonised standards, which they draw up in accordance with the general guidelines for co-operation between themselves and the Commission, and with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

With regard to the fact that the European automotive supply industry is active worldwide the EU standards shall be preferably based upon or harmonised with international ISO standards.

Justification

The European automotive supply industry sells its products world wide. International ISO standards are preferred to maintain competitiveness. This in line with the recommendations of the High Level Group CARS 21.

Amendment 8

Recital 14

(14) Pyrotechnic articles ***should*** bear ***the*** CE marking indicating their conformity with the provisions of this Directive to enable them to move freely within the Community.

(14) ***In order to be placed on the market,*** Pyrotechnic articles ***must*** bear ***a*** CE marking indicating their conformity with the provisions of this Directive to enable them to move freely within the Community.

Amendment 9

Recital 15

(15) ***As*** regards safety in transportation, the rules concerning the transport of pyrotechnic articles are covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods.

(15) ***This Directive shall not have any effect as*** regards safety in transportation, ***since*** the rules concerning the transport of pyrotechnic articles are covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods.

Justification

The relevant Community or national legislation, as appropriate, shall continue to apply as regards safety in the manufacture, storage and handling by professionals in the automotive industry or for pyrotechnic displays.

Amendment 10 Article 1, paragraph 4, indent 1

- Pyrotechnic articles intended for use, in accordance with national law, by the armed forces **or** the police;

- Pyrotechnic articles intended for **non commercial** use, in accordance with national law, by the armed forces, the police **or fire departments**;

Justification

Fireworks used for training and specialist use should be exempted from this Directive.

Amendment 11 Article 1, paragraph 4, indent 3

- Pyrotechnic articles intended for use in **aircraft**;

- Pyrotechnic articles intended for use in **the aerospace industry**;

Justification

This is a more accurate term. The rationale behind the exemption of aircrafts from this Directive (very good track record with respect to accidents with pyrotechnic articles due to very strict control systems), is applicable for the entire aerospace industry.

Amendment 12 Article 1, paragraph 4, indent 4

- **Pyrotechnic** articles falling within the scope of Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys;

- **Percussion caps intended specifically for toys and other** articles falling within the scope of Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys;

Justification

With its current wording, the Directive would be applicable to percussion caps designed to be used with toys which are already subject to the Directive concerning the safety of toys.

Amendment 13
Article 1, paragraph 4, indent 6

- Ammunitions, meaning projectiles and propelling charges used in ***small arms***, artillery, and other guns.

- Ammunitions, meaning projectiles and propelling charges used in ***portable firearms***, artillery, and other guns.

Justification

Clarification. Internationally, the term 'portable firearms' is more common.

Amendment 14
Article 1, paragraph 4, indent 6 a (new)

- The storage and transport of pyrotechnic articles.

Justification

To avoid double legislation, it should be clear that the transport of pyrotechnic articles is exempted from this Directive, since it is sufficiently covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods.

Amendment 15
Article 2, paragraph 1

1. 'Pyrotechnic article' means any ***article*** containing substances ***or a mixture of substances*** designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions for both entertainment and other purposes.

1. 'Pyrotechnic article' means any ***device or artefact*** containing substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions for both entertainment and other purposes.

Amendment 16
Article 2, paragraph 2

2. 'Placing on the market' means the first making available on the Community market of an individual ***product intended for end***

2. 'Placing on the market' means the first making available ***to third parties*** on the Community market of an individual

use, with a view to distribution and/or use, whether in return of payment or free of charge.

pyrotechnic article, with a view to distribution and/or use, whether in return of payment or free of charge.

Justification

Terms ‘intended for end use’ are confusing in the case of automotive pyrotechnic articles. They are currently placed on the market for incorporation in other vehicle systems (airbag modules, seats etc.) then for ‘end use’ in vehicles to protect the vehicle occupants. Performance of these systems including the articles are checked by the type approval Directives on protection against frontal collision, side collision etc.

Amendment 17 Article 2, paragraph 3

3. ‘Firework’ means pyrotechnic article for entertainment.

3. ‘Firework’ means pyrotechnic article for entertainment, ***leisure use, advertising, stage and cinematic special effects in accordance with the relevant United Nations recommendations and with Commission Directive 2004/57/EC***.¹

¹ OJ L 127, 29.4.2004, p. 73.

Amendment 18 Article 2, paragraph 4

4. ‘**Automotive** pyrotechnic article’ means **articles** which contain pyrotechnic substances used to activate safety devices or other devices in **motor** vehicles.

4. ‘pyrotechnic article **for vehicles**’ means ***the components of an automotive safety device*** which contain pyrotechnic substances ***and which are*** used to activate safety devices or other devices in vehicles.

Justification

Clarification of the text plus deletion of ‘motor’ as such articles may be used on vehicles other than motor vehicles.

Amendment 19 Article 2, paragraph 8

8. ‘Person with specialist knowledge’ means a person authorised by Member States to

8. ‘Person with specialist knowledge’ means a person authorised by Member States to

possess and/or use on their territory category 4 fireworks and/or category 2 other pyrotechnic articles as defined in Article 3.

handle and/or use on their territory category 4 fireworks and/or category 2 other pyrotechnic articles as defined in Article 3.

Justification

One does not need to be a 'person with specialist' knowledge to use category 3 articles including in displays. However, a 'person with specialist knowledge' is required for stage effects as covered by other pyrotechnic articles of category 2 both as regards handling and use.

Amendment 20

Article 3, paragraph 1, subparagraph 1

1. Pyrotechnic articles falling within the scope of this Directive shall be categorised by the manufacturer according to ***their type of use, or their purpose and*** level of hazard. Notified bodies shall confirm the categorisation as part of the conformity assessment procedures according to Article 9.

1. Pyrotechnic articles falling within the scope of this Directive shall be categorised by the manufacturer ***or importer*** according to ***their*** level of hazard ***including sound level as regards their type of use or purpose***. Notified bodies shall confirm the categorisation as part of the conformity assessment procedures according to Article 9.

Justification

It should be made clear that the danger relates to the use. See recital 6.

Amendment 21

Article 3, paragraph 1, subparagraph 2, point (a)

Category 1: fireworks which present a very low hazard and which are intended for use in confined areas, including ***fireworks*** which are intended for use inside domestic buildings;

Category 2: fireworks which present a low hazard and which are intended for outdoor use in confined areas;

Category 3: fireworks which present a

Category 1: fireworks which present a very low hazard ***and negligible sonic impact*** and which are intended for use ***by consumers*** in ***small*** confined areas, including ***those*** which are intended for use inside domestic ***or public*** buildings ***including before an audience***;

Category 2: fireworks which present a low hazard ***and low sonic impact*** and which are intended for outdoor use ***by consumers*** in ***large*** confined areas ***including before an audience***;

Category 3: fireworks which present a

medium hazard and which are intended for outdoor use in large open areas;

Category 4: fireworks which present a high hazard and which are intended for use by persons with specialist knowledge only, commonly known as “fireworks for professional use”.

medium hazard and which are intended for outdoor use *by consumers* in large open areas *as well as for technical purposes in signalling, agriculture or the like*; *The sound level of these articles should not be harmful for human health*;

Category 3 a: pyrotechnic articles which present a medium or high hazard and which are intended for use by persons with specialist knowledge only for indoor use before a proximate audience.*

Category 4: fireworks which present a high hazard and which are intended for use by persons with specialist knowledge only, commonly known as “fireworks for professional use”.

(If this amendment is adopted, the references to these categories will need to be amended throughout the text)

Justification

Account needs to be taken of stage pyrotechnics.

Amendment 22

Article 3, paragraph 1, subparagraph 2, point (b), title

b) ***Other*** pyrotechnic articles

b) Pyrotechnic articles ***for vehicles and other purposes***

Amendment 23

Article 4, paragraph 3, point (a)

(a) Submit the product to a notified body which will perform a conformity assessment procedure in accordance with Article 9;

(a) Submit the ***details and features of the*** product to a notified body which will perform a conformity assessment procedure in accordance with Article 9;

Amendment 24

Article 5

Member States shall take all appropriate

Member States shall take all appropriate

measures to ensure that pyrotechnic articles which fall within the scope of the present Directive may be placed on the market only if they comply with the obligations of this Directive, they bear the EC marking, and they comply with the obligations relating to the conformity assessment.

Member States shall take all appropriate measures to ensure that pyrotechnic articles shall not unduly bear the CE marking.

measures to ensure that pyrotechnic articles which fall within the scope of the present Directive may be placed on the market **and be moved freely within the Community's internal market** only if they comply with the obligations of this Directive, they bear the EC marking, and they comply with the obligations relating to the conformity assessment.

Member States shall take all appropriate measures to ensure that pyrotechnic articles **falling within the scope of this Directive** shall not unduly bear the CE marking.

Amendment 25
Article 6, paragraph 1

1. Member States shall not prohibit, restrict or hinder the placing on the market of pyrotechnic articles which fall within the scope of this Directive and which satisfy the requirements of this Directive.

1. Member States shall not prohibit, restrict or hinder the placing on the market **and the free movement** of pyrotechnic articles which fall within the scope of this Directive and which satisfy the requirements of this Directive.

Amendment 26
Article 6, paragraph 2

2. The provisions of this Directive shall also not preclude measures by a Member State which are justified on grounds of public security or safety to restrict the use and/or the sale to **the general public** of category 2 and 3 fireworks.

2. The provisions of this Directive shall also not preclude measures by a Member State which are justified on grounds of public security or safety to restrict the use and/or the sale to **consumers** of category 2 and 3 fireworks.

Amendment 27
Article 6, paragraph 3

3. At trade fairs, exhibitions **and** demonstrations for marketing purposes, Member States shall not prevent the showing of pyrotechnic articles not in conformity with the provisions of this Directive, provided that a visible sign clearly indicates

3. At trade fairs, exhibitions, demonstrations for marketing purposes, **displays and shows** Member States shall not prevent the showing of pyrotechnic articles **exclusively handled by experts even if** not in conformity with the provisions of this Directive, provided that a

their non-conformity and their non-availability for sale until brought into conformity by the manufacturer or **by his** authorized representative established within the Community. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned in order to ensure the safety of persons.

visible sign clearly indicates their non-conformity and their non-availability for sale until brought into conformity by the manufacturer, **importer** or authorized representative established within the Community. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned in order to ensure the safety of persons.

Amendment 28
Article 6, paragraph 4

4. Member States shall not prevent the free movement and use of **automotive** pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with the provisions of this Directive, provided that a visible sign clearly indicates their non-conformity and their non-availability for sale.

4. Member States shall not prevent the free movement and use of pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with the provisions of this Directive, provided that a visible sign clearly indicates their non-conformity and their non-availability for sale.

Justification

Research and development should be encouraged, not only with regard to the automotive pyrotechnic articles, but all articles covered by this Directive.

Amendment 29
Article 7, paragraph 2

2. Member States may increase the age limits under paragraph 1 where justified on grounds of public security or safety. Member States may also lower the age limits for persons vocationally trained or undergoing such training.

2. Member States may increase the age limits under paragraph 1 **only** where justified on grounds of public security or safety. Member States may also lower the age limits for persons vocationally trained or undergoing such training.

Amendment 30
Article 7, paragraph 3

3. Manufacturers and distributors shall not sell or otherwise make available the following pyrotechnic articles except to persons with specialist knowledge only:

(a) Fireworks of category 4,

(b) ***Other pyrotechnic*** articles of category 2.

3. Manufacturers and distributors shall not sell or otherwise make available the following pyrotechnic articles except to persons with specialist knowledge only:

(a) Fireworks of category 4 ***and category 3 a***,

(b) ***Pyrotechnic*** articles ***for vehicles and other purposes*** of category 2.

Amendment 31
Article 8, paragraph 1

1. The Commission may, in accordance with the procedures laid down by Directive 98/34/EC, request the European standardisation bodies to draw up or revise European standards in support of this Directive.

1. The Commission may, in accordance with the procedures laid down by Directive 98/34/EC, request the European standardisation bodies to draw up or revise European standards in support of this Directive ***or encourage respective international bodies to draw up or revise international standards.***

Justification

The European automotive supply industry sells its products world wide. International ISO standards are preferred to maintain competitiveness. This in line with the recommendations of the High Level Group CARS 21.

Amendment 32
Article 8, paragraph 3, subparagraph 1

Member States shall consider pyrotechnic articles falling within the scope of this Directive which comply with the relevant harmonised standards, the references of which have been published in the Official Journal of the European Union, to be in conformity with the essential safety requirements referred to in Article 4(1).

Member States shall acknowledge and adopt the harmonised standards which have been published in the Official Journal of the European Union. Member States shall consider pyrotechnic articles falling within the scope of this Directive which comply with the relevant harmonised standards, the references of which have been published in the Official Journal of the European Union, to be in conformity with the essential safety requirements referred to in Article 4(1).

Amendment 33
Article 8, paragraph 4

4. Where a Member State or the Commission considers that the harmonised standards referred to in this Article do not fully satisfy the essential safety requirements referred to in Article 4(1), the Commission or the Member State concerned shall bring the matter before the Standing Committee set up by Directive 98/34/EC, giving its reasons. The Committee shall deliver its opinion without delay. In the light of the Committee's opinion the Commission shall inform the Member States of the measures to be taken regarding the harmonised standards and the publication referred to in paragraph 2.

4. Where a Member State or the Commission considers that the harmonised standards referred to in this Article do not fully satisfy the essential safety requirements referred to in Article 4(1), the Commission or the Member State concerned shall bring the matter before the Standing Committee set up by Directive 98/34/EC, giving its reasons. The Committee shall deliver its opinion without delay, ***in any case within 3 months after the matter has been brought before the Standing Committee if practicable***. In the light of the Committee's opinion the Commission shall inform the Member States of the measures to be taken regarding the harmonised standards and the publication referred to in paragraph 2.

Justification

A situation where a published standard is questioned is not sustainable for the industry which needs certainty to properly work.

Amendment 34
Article 11, paragraph 1, subparagraph 1

1. After having completed the conformity assessment successfully according to Article 9, manufacturers shall affix the CE marking, in such a way as to be visible, legible and indelible on the pyrotechnic articles themselves or, if this is not possible, on an identification plate attached thereto or, in the last resort, if the first two methods cannot be used, on the packaging. The identification plate must be so designed as to make its reuse impossible.

1. After having completed the conformity assessment successfully according to Article 9, manufacturers shall affix the CE marking, in such a way as to be visible, legible and indelible on the pyrotechnic articles themselves or, if this is not possible, on an identification plate attached thereto or, in the last resort, if the first two methods cannot be used, on the ***container or*** packaging. The identification plate must be so designed as to make its reuse impossible.

Amendment 35
Article 12, Title

Justification

The articles from the automotive supply industry are sold to professional users (the vehicle manufacturers and their authorised workshops). The rules for their labelling should therefore differ from those of other pyrotechnic articles.

Amendment 36
Article 12, paragraph 2

2. The labelling of pyrotechnic articles shall state as a minimum, the name of manufacturer or *its* authorised representative, the name and type of the article, ***minimum age limits as indicated in Article 7 paragraphs 1 and 2***, the relevant category and instructions for use and, where appropriate, safety distance. Labelling shall ***also refer to the Class/Division (1.1-1.6) of the substance or mixture of substances contained in the article in accordance with the UN/ADR classification scheme or state comparable*** information on the hazard (mass explosion hazard, projection hazard, blast hazard, fire hazard).

2. The labelling of pyrotechnic articles shall state as a minimum, the name of manufacturer, ***importer*** or authorised representative, the name and type of the article, the relevant category and instructions for use and, where appropriate, safety distance ***of the audience***. Labelling shall state information on the hazard (mass explosion hazard, projection hazard, blast hazard, fire hazard, ***sonic hazard***), ***the number of the notified body responsible for the conformity assessment of the pyrotechnic article***.

Amendment 37
Article 12, paragraph 5

5. The provisions of paragraphs 1 to 4 shall not apply to fireworks of category 4 ***and other pyrotechnic articles of category 2*** which are being ***publicly displayed*** by the manufacturer.

5. The provisions of paragraphs 1 to 4 shall not apply to fireworks of category 4 ***which have not been placed on the market and*** which are being ***used or displayed publicly*** by the manufacturer ***himself***.

Amendment 38
Article 12 a (new)

Article 12a

Labelling of automotive pyrotechnic articles

1. The labelling of pyrotechnic articles shall state as a minimum, the name of manufacturer or its authorised representative, the name and type of the article.

2. If the pyrotechnic article does not provide sufficient space for the labelling requirements referred to in paragraph 1, the information shall be provided on the packaging.

Justification

The articles from the automotive supply industry are sold to professional users (the vehicle manufacturers and their authorised workshops). The delivery batches of articles are accompanied by Safety Data Sheets according to Directive 91/155/EEC where the data required by Article 12 of the Commission's proposal and other data can be found. Hence there is no necessity to repeat this information on the articles or their packaging.

Amendment 39
Article 13, paragraph 1

1. Member States shall take all appropriate measures to ensure that pyrotechnic articles falling in the scope of this Directive may be placed on the market only if, when properly stored and ***used for*** their intended purpose, they do not endanger the health and safety of persons.

1. Member States shall take all appropriate measures to ensure that pyrotechnic articles falling in the scope of this Directive may be placed on the market only if, when properly stored and ***in accordance with*** their intended purpose, they do not endanger the health and safety of persons.

Amendment 40
Article 20, paragraph 1

1. Member States shall adopt and publish, by [...] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall ***inform the Commission of the bodies appointed in accordance with Article 10 (1) and*** adopt and publish, by [...] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. . They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Justification

A time-limit should be put in place for Member States to appoint a Notified body. Otherwise manufacturers would not be able to fully meet the requirements of this Directive and thus place their articles on the market.

Amendment 41 Annex I, point 1

(1) Each pyrotechnic article must attain the performance characteristics specified by the manufacturer to the notified body in order to ensure maximum safety and reliability.

(1) Each pyrotechnic article must attain the performance characteristics specified by the manufacturer, ***importer or authorised representative*** to the notified body in order to ensure maximum safety and reliability.

Amendment 42 Annex I, letter (b)

(b) The physical and chemical stability of the pyrotechnic article in all normal, foreseeable environmental conditions.

(b) The physical and chemical stability ***and resistance*** of the pyrotechnic article in all normal, foreseeable environmental conditions.

Amendment 43 Annex I, letter (c)

(c) Sensitiveness to normal, foreseeable handling and transportation.

(c) Sensitiveness to normal, foreseeable handling and transportation. ***During normal handling and transportation, unless specified by the manufacturer's instructions, the pyrotechnic articles should contain the pyrotechnic composition***

Amendment 44 Annex I, letter (k)

(k) During transportation and normal handling, unless specified by the manufacturer's instructions, the pyrotechnic articles should contain the pyrotechnic composition.

deleted

Amendment 45
Annex I, Chapter A, letter (a)

a) The manufacturer shall assign fireworks to different categories according to Article 3 characterised by net explosive content, safety distances, sound level, or similar. The category shall be clearly indicated on the label.

a) The manufacturer shall assign fireworks to different categories according to Article 3 characterised by ***their type of use, purpose level of hazard***, net explosive content, safety distances, sound level, or similar. The category shall be clearly indicated on the label.

Amendment 46
Annex I, Chapter A, letter (c)

c) ***The*** method of ignition must be clearly visible or must be indicated by labelling or instructions.

c) ***Where required, the*** method of ignition must be clearly visible or must be indicated by labelling or instructions.

Amendment 47
Annex I, Chapter C, letter (c)

c) ***Electric*** igniters must be protected against electromagnetic fields under normal, foreseeable conditions of storage and use.

c) ***Where appropriate, electric*** igniters must be protected against electromagnetic fields under normal, foreseeable conditions of storage and use.

Amendment 48
Annex I, Chapter C, letter (e)

e) The parameters for the burning times of fuses must be provided with the article.

deleted

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council on the placing on the market of pyrotechnic articles
References	COM(2005)0457 – C6-0312/2005 – 2005/0194(COD)
Committee responsible	IMCO
Opinion by Date announced in plenary	ITRE 27.10.2005
Enhanced cooperation – date announced in plenary	NO
Drafts(wo)man Date appointed	Josu Ortuondo Larrea 23.11.2005
Previous drafts(wo)man	
Discussed in committee	21.2.2006 18.4.2006 30.5.2006
Date adopted	30.5.2006
Result of final vote	+: 43 –: 0 0: 0
Members present for the final vote	John Attard-Montalto, Jan Březina, Philippe Busquin, Jerzy Buzek, Joan Calabuig Rull, Pilar del Castillo Vera, Jorgo Chatzimarkakis, Giles Chichester, Den Dover, Adam Gierak, András Gyürk, Fiona Hall, Erna Hennicot-Schoepges, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Vincenzo Lavarra, Angelika Niebler, Reino Paasilinna, Umberto Pirilli, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Andres Tarand, Britta Thomsen, Patrizia Toia, Catherine Trautmann, Nikolaos Vakalis, Alejo Vidal-Quadras
Substitute(s) present for the final vote	Ivo Belet, Zdzisław Kazimierz Chmielewski, Edit Herczog, Toine Manders, Lambert van Nistelrooij, Josu Ortuondo Larrea, Francisca Pleguezuelos Aguilar, Esko Seppänen
Substitute(s) under Rule 178(2) present for the final vote	Maria Badia I Cutchet, Giovanni Berlinguer, Marco Cappato
Comments (available in one language only)	

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council on the placing on the market of pyrotechnic articles					
References	COM(2005)0457 – C6-0312/2005 – 2005/0194(COD)					
Date submitted to Parliament	11.10.2005					
Committee responsible Date announced in plenary	IMCO 27.10.2005					
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 27.10.2005	ENVI 27.10.2005				
Not delivering opinion(s) Date of decision	ENVI 21.11.2005					
Enhanced cooperation Date announced in plenary						
Rapporteur(s) Date appointed	Joel Hasse Ferreira 7.11.2005					
Previous rapporteur(s)						
Simplified procedure – date of decision						
Legal basis disputed Date of JURI opinion		/				
Financial endowment amended Date of BUDG opinion		/				
European Economic and Social Committee consulted – date of decision in plenary						
Committee of the Regions consulted – date of decision in plenary						
Discussed in committee	30.1.2006	20.2.2006	21.3.2006	2.5.2006	11.7.2006	
Date adopted	14.9.2006					
Result of final vote	+	31				
	–	0				
	0	0				
Members present for the final vote	Charlotte Cederschiöld, Janelly Fourtou, Evelyne Gebhardt, Małgorzata Handzlik, Anneli Jäätteenmäki, Pierre Jonckheer, Henrik Dam Kristensen, Alexander Lambsdorff, Kurt Lechner, Arlene McCarthy, Manuel Medina Ortega, Zita Pleštinská, Guido Podestà, Giovanni Rivera, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Eva-Britt Svensson, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud, Barbara Weiler, Glenis Willmott					
Substitute(s) present for the final vote	André Brie, Joel Hasse Ferreira, Syed Kamall, Othmar Karas, Joseph Muscat, Gary Titley, Anja Weisgerber					
Substitute(s) under Rule 178(2) present for the final vote						
Date tabled	19.9.2006					
Comments (available in one language only)	...					