



Notification Number: 2009/104/F

## Order relating to the conditions for marketing construction and decorative products containing carcinogens, mutagens or reprotoxic substances in category 1 or 2.

Date received : 26/02/2009  
End of Standstill : 27/05/2009 ( 27/08/2009)  
Issue of comments by : Commission, United Kingdom  
Issue of detailed opinion by : Italy

### Message

Message 002

Communication from the Commission - SG(2009) D/50445  
Directive 98/34/EC  
Translation of the message 001  
Notification: 2009/0104/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 200900445.EN)

#### 1. Structured Information Line

MSG 002 IND 2009 0104 F EN 27-05-2009 26-02-2009 F NOTIF 27-05-2009

#### 2. Member State

F

#### 3. Department Responsible

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#### 3. Originating Department



Ministère de l'écologie, de l'énergie, du développement durable et de l'aménagement du territoire.  
Direction générale de la prévention des risques.  
Service de la prévention des nuisances et de la qualité de l'environnement  
Département Produits chimiques, pollutions diffuses, agriculture  
Bureau des substances et préparations chimiques  
20 avenue de Ségur - 75302 Paris 07 SP

#### **4. Notification Number**

2009/104/F - B20

#### **5. Title**

Order relating to the conditions for marketing construction and decorative products containing carcinogens, mutagens or reprotoxic substances in category 1 or 2.

#### **6. Products Concerned**

Products: construction products

#### **7. Notification Under Another Act**

NO

#### **8. Main Content**

This text is a Ministerial order banning the marketing and usage of construction and decorative products emitting certain carcinogens, mutagens or reprotoxic substances in category 1 or 2. It provides for the marketing of construction and decorative products only if they issue less than 1 µg/m<sup>3</sup> for the following substances: benzene, dibutyl phthalate and Di(2-ethylhexyl) phthalate.

This limitation is measured and calculated in accordance with the standard NF ISO 16000

Key words: construction materials, carcinogens, mutagens, reprotoxic, emission.

#### **9. Brief Statement of Grounds**

Generally speaking, the marketing for consumer usage of substances and preparations classified as carcinogenic, mutagenic and toxic to reproduction (CMR) in categories 1 and 2 is forbidden. Construction and decorative materials are generally considered as articles and as a result they escape this generic ban. Yet the population spends more than 80% of its time on premises and more generally in confined spaces that can present high concentrations of pollutants, in particular volatile organic compounds linked to buildings that contain CMR substances. The ban on CMR substances in construction products will allow health protection to be guaranteed and reduce the potential impact of the materials on the quality of indoor air.

#### **10. Reference Documents - Basic Texts**

Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances. Annex I.  
Directive 89/106/EC concerning construction products

Article L.521-6 of the Environment Code: "Art. L.521-6-II. The following measures may be taken for substances and preparations presenting hazards or risks that are unacceptable for the population or the environment as well as for manufactured products or equipment containing them under the conditions provided for in Article L. 521-1:  
1° Measure for a total, provisional or partial ban on the production, import, export, transport, marketing or certain



usage; 2° Instruction aimed at restraining or regulating the production, import, export, marketing, deployment for certain uses, recovery, regeneration, recycling, elimination, storage, transport, composition, labelling, packaging, trade name and advertising, as well as any other condition necessary for the preservation of public health or the environment.”

Article L 212-1 of the Consumer Code: “Art. L.212-1 When first marketed, the products must comply with the provisions in force relating to the safety and health of the population, fair trading and consumer protection. The entity responsible for the initial marketing of a product is accordingly obliged to verify that that the latter complies with the provisions in force. At the request of the agents empowered to apply this paper, it is obliged to justify the verifications and checks carried out.”

f) Cf. impact study

#### **11. Invocation of the Emergency Procedure**

NO

#### **13. Confidentiality**

NO

#### **14. Fiscal measures**

NO

#### **15. Impact assessment**

Impact studies: YES

#### **16. TBT and SPS aspects**

TBT aspect

a) YES

SPS aspect

a) NO

b) The draft is not a sanitary or phytosanitary measure within the meaning of Annex A to the SPS Agreement.

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