

NIST GCR 01-824

A Guide to the EU Directive Concerning Liability for Defective Products (Product Liability Directive)

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NIST
National Institute of Standards and Technology
Technology Administration, U.S. Department of Commerce

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Prepared for
*U.S. Department of Commerce
Global Standards Program
Office of Standards Services
National Institute of Standards and Technology
Gaithersburg, MD 20899-2100*

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October 2001



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ABSTRACT

This guide (prepared under contract by Helen Delaney and Rene van de Zande, DVZ Joint Ventures) is an easy-to-use introductory reference for industry and government officials on the requirements of the European Union's (EU) *Directive Concerning Liability for Defective Products (Product Liability Directive)* [85/374/EEC]. It is designed to help business and government officials understand the purpose of the directive, its relationship to other directives, the essential requirements contained in the directive, and the basic steps necessary for compliance. The guide offers explanations of such requirements as: what is covered by the directive; what is excluded from coverage under the directive; definitions; producer defenses; recovery of damages; time limits; contractual obligations; and member state rights. The guide also contains the text of the directive. In addition, the guide references appropriate sections of *NIST Special Publication 951: A Guide to EU Standards and Conformity Assessment* for further information on some of the generic conformity assessment concepts and requirements of the EU's New Approach.

Key Words: CEN; CENELEC; conformity assessment; defective products; directives; European Union; legal liability; liability; New Approach directives; product liability

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The Directive Concerning Liability for Defective Products (Product Liability Directive) 1

Directive 85/374/EEC

In force since July 30, 1988,

Amended by Council Directive 1999/34/EC of 10 May 1999

To Be Considered:

1. *One of the most significant single events in the history of product liability law in Europe occurred on 25 July 1985 with the promulgation of the ‘Council Directive on the Approximation of the Laws, Regulations, and Administrative Provisions of the Member States concerning Liability for Defective Products’ (Product Liability Directive). The Directive required all European Union Member States (See NIST SP 951: A Guide to EU Standards and Conformity Assessment, Page 1) to issue conforming ‘strict product liability’ laws.*
2. *The Directive calls upon the Member States to impose strict liability on producers of defective products that cause personal injury or property damage. The Directive does not, however, provide for a cause of action. Cause of action is left to Member States. **Product liability cases are tried in national courts under national laws.***
3. *The Product Liability Directive covers any defective product manufactured or imported into the European Union that causes damages to individuals or private property.*
4. *The Directive applies also to products that fall within the scope of New Approach Directives (See NIST SP 951, Page 5). Also: See “Product Liability” NIST SP 951, Page 32).*
5. *The Directive does not affect national provisions governing contractual or non-contractual liability. (Article 13).*
6. *The Directive does not apply to injury or damage arising from nuclear accidents covered by international conventions ratified by the Member States (Article 14).*
7. *The Directive applies only to products. It does not apply to services.*
8. *Under the New Approach Directives, Europe has developed Harmonized Standards, including standards related to risk assessment (See NIST SP 951, Page 25). Although these standards have not been developed in the context of the*

1 Readers of this report may wish to refer to NIST SP 951: A Guide to EU Standards and Conformity Assessment, which is available on NIST’s website at: <http://ts.nist.gov/ca>.

Product Liability Directive, they could help guide the manufacturer in the discovery of defects that might be related to design.

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Purpose of the Product Liability Directive

The purpose of this Directive is to ensure consumer protection against damage caused to health or property by a defective product and to reduce the disparities between national laws.

Article 1 of the Directive says that the *producer* shall be liable for *damage caused* by a *defect* in his *product*. This article is the basis upon which the entire Directive is formulated.

The Directive is made up of the following elements:

1. It introduces the concept of strict liability (without fault) on the part of the producer in favor of the victim;
2. It places the burden of proof on the injured party insofar as the damage, the defect, and the causal relationship between the two is concerned;
3. It establishes joint and several liability of all operators in the production chain in favor of the injured party, so as to provide a financial guarantee for compensation of the damage;
4. It provides for exoneration of the producer when the producer proves the existence of certain facts explicitly set out in the Directive;
5. It sets liability limitations in terms of time, by virtue of uniform deadlines;
6. It sets illegality of clauses limiting or excluding liability towards the injured party;
7. It sets a limit for financial liability; and
8. It provides for a regular review of its content in the light of the effects on injured parties and producers.

Definitions

Product: A ‘product’ means physical property and goods, as opposed to land or rights in or to real property. A product could include a whole product, part of another product, or part of a fixture attached to real property (*Article 2*).

Directive 1999/34/EC amended 85/374/EEC by redefining “product” as all movables even if incorporated into another movable or into an immovable. In the original Directive, primary agricultural products and game were excluded (*Article 2*). However, Directive 1999/34/EC extended the scope of Directive 85/374/EEC so that it now includes primary agricultural products (such as meat, cereals, fruit and vegetables) and game. The Member States were directed to apply the rules of the new Directive as of December 4, 2000.

The Directive applies to electricity as well as raw materials and components of final products.

Producer: Liability, or the responsibility to pay for damages, is placed on the producer. Article 3 defines the producer not only as the manufacturer of a finished product, but also as:

- The maker of any raw material or the manufacturer of a component part;
- Any person who, by putting his/her name, trademark or other distinguishing feature on the product, presents himself/herself as the producer;
- Any person supplying a product if the producer cannot be identified;
- Importers placing products on the European Union market (See NIST SP 951, Page 23).

Cause: Under the Product Liability Directive, the injured party is required to prove the damage, the defect in the product, and the causal relationship between the two (Article 4).

The injured party may not institute a product liability suit against a manufacturer if:

- The injured party is unable to show that the manufacturer (or supplier) owed the injured party a duty of care and failed to take reasonable care towards the injured party in supplying the defective product; or
- The injured party is unable to prove that the manufacturer (or supplier) failed to comply with a particular consumer safety, or health and safety at work, law relating to the product.

In the event two or more persons are liable for the same damage, they are liable jointly and severally (Article 5).

Defective Product: The Directive applies only to defective products; that is, products not providing the safety to which a consumer is entitled (Article 6). Factors to be taken into account include:

- The presentation of the product (including any instructions or warnings, packaging, and advertising);
- Whether the product is being put to reasonable use; and
- The time the product was put into circulation. The fact that a better product is manufactured afterwards does not automatically render older models defective.

Producer Defenses: Article 7 provides six defenses for the producer.

A producer will not be liable if the producer proves:

1. That the producer was not responsible for placing the product on the market;
2. That the defect which caused the damage did not exist at the time the product was placed on the market by the producer, or that this defect came into being afterwards;
3. That the product was neither manufactured by the producer for sale or any form of distribution for economic purpose, nor manufactured, or distributed by the producer in the course of business;
4. That the defect is due to compliance of the product with mandatory regulations issued by public authorities. *Note: Harmonized Standards (See NIST SP 951, Page 10), although they confer a presumption of conformity to safety regulations, do not free a producer from liability. They may, however, reduce the likelihood of damages;*
5. That the state of scientific and technical knowledge at the time the producer placed the product on the market was not such as to enable the defect to be discovered; or
6. Where the producer is a subcontractor, the defect is attributable to either the design of the finished product in which the component has been fitted, or to defective instructions given to subcontractor by the producer of the finished product.

Note: Although the injured party must prove damage, defect and the causal relationship between the two, the injured party is not required to prove that the producer was negligent. The burden to prove non-negligence is borne by the producer.

The producer's liability will not be reduced if damage is caused both by a defect in product and by the act or omission of a third party. (Article 8.1). (See Member State Rights, Article 15).

If the product is defective and the injured party is at fault, the producer's liability may be reduced (Article 8.2).

Damage: Article 9 outlines two types of damage that may be the subject of a claim under the Directive:

1. Damage caused by death or personal injury; and
2. Property damage.

Damage to property must satisfy the following criteria:

- It must be intended for private use;
- It must be used by the person who has suffered the loss mainly for his own private use or consumption; and

- The total damages claimed by a person in respect of loss of property must exceed 500 ECU.

Recovery of Damages: The injured person has three years to seek compensation. This period begins on the date the plaintiff becomes aware or should reasonably have become aware of the damage, the defect, and the identity of the producer (*Article 10.1*).

Time Limit: The producer's liability expires at the end of ten years from the date on which the producer placed the product on the market (unless legal action is pending) (*Article 11*).

Contractual Arrangements: The producer may not limit his liability, nor is the producer exempted from it, regardless of what contractual arrangements have been made with the injured party (*Article 12*).

Member State Rights: Regardless of the provisions of Article 7 (noted below) that excuse the producer from liability if:

"...the state of scientific and technical knowledge at the time the producer placed the product on the market was not such as to enable the defect to be discovered."

Member States are allowed derogation from Article 7. They may hold the producer liable even if the producer proves that the state of scientific and technical knowledge at the time the producer put the product into circulation was not such as to enable the existence of a defect to be discovered (*Article 15*).

The Directive allows each Member State to set a limit for a producer's total liability for damage resulting from death or personal injury caused by identical items with the same defect. This limit may not be lower than 70 million ECU (*Article 16*).

Note: National law may govern non-material damages, such as pain and suffering, although the Directive does not require Member States to offer them.

Text of the Directive on Product Liability (85/374/EEC)

The following text of the Directive on Product Liability (85/374/EEC) has been taken from EUR-Lex, the digital version of the legislation issued in the Official Journal of the European Communities. Web Site: http://www.europa.eu.int/comm/consumers/policy/developments/prod_liab/pl01_en.pdf

Only European Community's legislation printed in the Official Journal of the European Communities is deemed to be authentic.

COUNCIL DIRECTIVE of 25 July 1985

On the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (85/374/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,
Having regard to the proposal from the Commission (1),
Having regard to the opinion of the European Parliament (2),
Having regard to the opinion of the Economic and Social Committee (3),

Whereas approximation of the laws of the Member States concerning the liability of the producer for damage caused by the defectiveness of his products is necessary because the existing divergences may distort competition and affect the movement of goods within the common market and entail a differing degree of protection of the consumer against damage caused by a defective product to his health or property;

Whereas liability without fault on the part of the producer is the sole means of adequately

solving the problem, peculiar to our age of increasing technicality, of a fair apportionment of the risks inherent in modern technological production;

Whereas liability without fault should apply only to movables which have been industrially produced;

Whereas, as a result, it is appropriate to exclude liability for agricultural products and game, except where they have undergone a processing of an industrial nature which could cause a defect in these products;

Whereas the liability provided for in this Directive should also apply to movables which are used in the construction of immovables or are installed in immovables;

Whereas protection of the consumer requires that all producers involved in the production process should be made liable, in so far as their finished product, component part or any raw material supplied by them was defective;

Whereas, for the same reason, liability should extend to importers of products into the Community and to persons who present themselves as producers by affixing their name, trade mark or other distinguishing feature or who supply a product the producer of which cannot be identified;

Whereas, in situations where several persons are liable for the same damage, the protection of the consumer requires that the injured person should be able to claim full compensation for the damage from any one of them;

Whereas, to protect the physical well-being and property of the consumer, the defectiveness of the product should be determined by reference not to its fitness for use but to the lack of the safety which the public at large is entitled to expect;

Whereas the safety is assessed by excluding any misuse of the product not reasonable under the circumstances;

Whereas a fair apportionment of risk between the injured person and the producer implies that the producer should be able to free himself from liability if he furnishes proof as to the existence of certain exonerating circumstances;

Whereas the protection of the consumer requires that the liability of the producer remains unaffected by acts or omissions of other persons having contributed to cause the damage;

Whereas, however, the contributory negligence of the injured person may be taken into account to reduce or disallow such liability;

Whereas the protection of the consumer

requires compensation for death and personal injury as well as compensation for damage to property;

Whereas the latter should nevertheless be limited to goods for private use or consumption and be subject to a deduction of a lower threshold of a fixed amount in order to avoid litigation in an excessive number of cases;

Whereas this Directive should not prejudice compensation for pain and suffering and other non-material damages payable, where appropriate, under the law applicable to the case;

Whereas a uniform period of limitation for the bringing of action for compensation is in the interests both of the injured person and of the producer;

Whereas products age in the course of time, higher safety standards are developed and the state of science and technology progresses;

Whereas, therefore, it would not be reasonable to make the producer liable for an unlimited period for the defectiveness of his product;

Whereas, therefore, liability should expire after a reasonable length of time, without prejudice to claims pending at law;

Whereas, to achieve effective protection of consumers, no contractual derogation should be permitted as regards the liability of the producer in relation to the injured person;

Whereas under the legal systems of the Member States an injured party may have a claim for damages based on grounds of contractual liability or on grounds of non-

contractual liability other than that provided for in this Directive; in so far as these provisions also serve to attain the objective of effective protection of consumers, they should remain unaffected by this Directive;

Whereas, in so far as effective protection of consumers in the sector of pharmaceutical products is already also attained in a Member State under a special liability system, claims based on this system should similarly remain possible;

Whereas, to the extent that liability for nuclear injury or damage is already covered in all Member States by adequate special rules, it has been possible to exclude damage of this type from the scope of this Directive;

Whereas, since the exclusion of primary agricultural products and game from the scope of this Directive may be felt, in certain Member States, in view of what is expected for the protection of consumers, to restrict unduly such protection, it should be possible for a Member State to extend liability to such products;

Whereas, for similar reasons, the possibility offered to a producer to free himself from liability if he proves that the state of scientific and technical knowledge at the time when he put the product into circulation was not such as to enable the existence of a defect to be discovered may be felt in certain Member States to restrict unduly the protection of the consumer;

Whereas it should therefore be possible for a Member State to maintain in its legislation or to provide by new legislation that this exonerating circumstance is not admitted;

Whereas, in the case of new legislation,

making use of this derogation should, however, be subject to a Community standstill procedure, in order to raise, if possible, the level of protection in a uniform manner throughout the Community;

Whereas, taking into account the legal traditions in most of the Member States, it is inappropriate to set any financial ceiling on the producer's liability without fault;

Whereas, in so far as there are, however, differing traditions, it seems possible to admit that a Member State may derogate from the principle of unlimited liability by providing a limit for the total liability of the producer for damage resulting from a death or personal injury and caused by identical items with the same defect, provided that this limit is established at a level sufficiently high to guarantee adequate protection of the consumer and the correct functioning of the common market;

Whereas the harmonization resulting from this cannot be total at the present stage, but opens the way towards greater harmonization;

Whereas it is therefore necessary that the Council receive at regular intervals, reports from the Commission on the application of this Directive, accompanied, as the case may be, by appropriate proposals;

Whereas it is particularly important in this respect that a re-examination be carried out of those parts of the Directive relating to the derogations open to the Member States, at the expiry of a period of sufficient length to gather practical experience on the effects of these derogations on the protection of consumers and on the functioning of the common market,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The producer shall be liable for damage caused by a defect in his product.

Article 2

For the purpose of this Directive 'product' means all movables, with the exception of primary agricultural products and game, even though incorporated into another movable or into an immovable.

'Primary agricultural products' means the products of the soil, of stock-farming and of fisheries, excluding products which have undergone initial processing. 'Product' includes electricity.

Article 3

1. 'Producer' means the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part and any person who, by putting his name, trade mark or other distinguishing feature on the product presents himself as its producer.

2. Without prejudice to the liability of the producer, any person who imports into the Community a product for sale, hire, leasing or any form of distribution in the course of his business shall be deemed to be a producer within the meaning of this Directive and shall be responsible as a producer.

3. Where the producer of the product cannot be identified, each supplier of the product shall be treated as its producer unless he informs the injured person, within a reasonable time, of the identity of the producer or of the person who supplied him

with the product. The same shall apply, in the case of an imported product, if this product does not indicate the identity of the importer referred to in paragraph 2, even if the name of the producer is indicated.

Article 4

The injured person shall be required to prove the damage, the defect and the causal relationship between defect and damage.

Article 5

Where, as a result of the provisions of this Directive, two or more persons are liable for the same damage, they shall be liable jointly and severally, without prejudice to the provisions of national law concerning the rights of contribution or recourse.

Article 6

1. A product is defective when it does not provide the safety that a person is entitled to expect, taking all circumstances into account, including:

- (a) the presentation of the product;
- (b) the use to which it could reasonably be expected that the product would be put;
- (c) the time when the product was put into circulation.

2. A product shall not be considered defective for the sole reason that a better product is subsequently put into circulation.

Article 7

The producer shall not be liable as a result of this Directive if he proves:

- (a) that he did not put the product into circulation; or
- (b) that, having regard to the circumstances, it is probable that the defect which caused

the damage did not exist at the time when the product was put into circulation by him or that this defect came into being afterwards; or
(c) that the product was neither manufactured by him for sale or any form of distribution for economic purpose nor manufactured or distributed by him in the course of his business; or
(d) that the defect is due to compliance of the product with mandatory regulations issued by the public authorities; or
(e) that the state of scientific and technical knowledge at the time when he put the product into circulation was not such as to enable the existence of the defect to be discovered; or
(f) in the case of a manufacturer of a component, that the defect is attributable to the design of the product in which the component has been fitted or to the instructions given by the manufacturer of the product.

Article 8

1. Without prejudice to the provisions of national law concerning the right of contribution or recourse, the liability of the producer shall not be reduced when the damage is caused both by a defect in product and by the act or omission of a third party.

2. The liability of the producer may be reduced or disallowed when, having regard to all the circumstances, the damage is caused both by a defect in the product and by the fault of the injured person or any person for whom the injured person is responsible.

Article 9

For the purpose of Article 1, 'damage'

means:

- (a) damage caused by death or by personal injuries;
- (b) damage to, or destruction of, any item of property other than the defective product itself, with a lower threshold of 500 ECU, provided that the item of property:
 - (i) is of a type ordinarily intended for private use or consumption, and
 - (ii) was used by the injured person mainly for his own private use or consumption.

This Article shall be without prejudice to national provisions relating to non-material damage.

Article 10

1. Member States shall provide in their legislation that a limitation period of three years shall apply to proceedings for the recovery of damages as provided for in this Directive. The limitation period shall begin to run from the day on which the plaintiff became aware, or should reasonably have become aware, of the damage, the defect and the identity of the producer.

2. The laws of Member States regulating suspension or interruption of the limitation period shall not be affected by this Directive.

Article 11

Member States shall provide in their legislation that the rights conferred upon the injured person pursuant to this Directive shall be extinguished upon the expiry of a period of 10 years from the date on which the producer put into circulation the actual product which caused the damage, unless the injured person has in the meantime instituted proceedings against the producer.

Article 12

The liability of the producer arising from this Directive may not, in relation to the injured person, be limited or excluded by a provision limiting his liability or exempting him from liability.

Article 13

This Directive shall not affect any rights which an injured person may have according to the rules of the law of contractual or non-contractual liability or a special liability system existing at the moment when this Directive is notified.

Article 14

This Directive shall not apply to injury or damage arising from nuclear accidents and covered by international conventions ratified by the Member States.

Article 15

1. Each Member State may:

(a) by way of derogation from Article 2, provide in its legislation that within the meaning of Article 1 of this Directive 'product' also means primary agricultural products and game;

(b) by way of derogation from Article 7 (e), maintain or, subject to the procedure set out in paragraph 2 of this Article, provide in this legislation that the producer shall be liable even if he proves that the state of scientific and technical knowledge at the time when he put the product into circulation was not such as to enable the existence of a defect to be discovered.

2. A Member State wishing to introduce the measure specified in paragraph 1 (b) shall communicate the text of the proposed

measure to the Commission. The Commission shall inform the other Member States thereof.

The Member State concerned shall hold the proposed measure in abeyance for nine months after the Commission is informed and provided that in the meantime the Commission has not submitted to the Council a proposal amending this Directive on the relevant matter. However, if within three months of receiving the said information, the Commission does not advise the Member State concerned that it intends submitting such a proposal to the Council, the Member State may take the proposed measure immediately.

If the Commission does submit to the Council such a proposal amending this Directive within the aforementioned nine months, the Member State concerned shall hold the proposed measure in abeyance for a further period of 18 months from the date on which the proposal is submitted.

3. Ten years after the date of notification of this Directive, the Commission shall submit to the Council a report on the effect that rulings by the courts as to the application of Article 7 (e) and of paragraph 1 (b) of this Article have on consumer protection and the functioning of the common market. In the light of this report the Council, acting on a proposal from the Commission and pursuant to the terms of Article 100 of the Treaty, shall decide whether to repeal Article 7 (e).

Article 16

1. Any Member State may provide that a producer's total liability for damage resulting from a death or personal injury and caused by identical items with the same defect shall be limited to an amount which may not be

less than 70 million ECU.

2. Ten years after the date of notification of this Directive, the Commission shall submit to the Council a report on the effect on consumer protection and the functioning of the common market of the implementation of the financial limit on liability by those Member States which have used the option provided for in paragraph 1. In the light of this report the Council, acting on a proposal from the Commission and pursuant to the terms of Article 100 of the Treaty, shall decide whether to repeal paragraph 1.

Article 17

This Directive shall not apply to products put into circulation before the date on which the provisions referred to in Article 19 enter into force.

Article 18

1. For the purposes of this Directive, the ECU shall be that defined by Regulation (EEC) No 3180/78 (1), as amended by Regulation (EEC) No 2626/84 (2). The equivalent in national currency shall initially be calculated at the rate obtaining on the date of adoption of this Directive.

2. Every five years the Council, acting on a proposal from the Commission, shall examine and, if need be, revise the amounts in this Directive, in the light of economic and monetary trends in the Community.

Article 19

1. Member States shall bring into force, not later than three years from the date of notification of this Directive, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the

Commission thereof (1).

2. The procedure set out in Article 15 (2) shall apply from the date of notification of this Directive.

Article 20

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

Article 21

Every five years the Commission shall present a report to the Council on the application of this Directive and, if necessary, shall submit appropriate proposals to it.

Article 22

This Directive is addressed to the Member States.

Done at Brussels, 25 July 1985.

For the Council

The President

J. POOS

**DIRECTIVE 1999/34/EC OF THE
EUROPEAN PARLIAMENT AND OF THE
COUNCIL
of 10 May 1999
amending Council Directive 85/374/EEC
on the approximation of the laws,
regulations and administrative provisions
of the Member States concerning liability
for defective products**

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN
UNION,

Having regard to the Treaty establishing the
European Community, and in particular
Article 95 thereof,

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

Having regard to the opinion of the Economic
and Social Committee (2),

Acting in accordance with the procedure laid
down in Article 251 of the Treaty(3),

(1) Whereas product safety and
compensation for damage caused by
defective products are social imperatives
which must be met within the internal market;
whereas the Community has responded to
those requirements by means of Directive
85/374/EEC (4) and Council Directive
92/59/EEC of 29 June 1992 on general
product safety(5);

(2) Whereas Directive 85/374/EEC
established a fair apportionment of the risks
inherent in a modern society in which there is
a high degree of technicality; whereas that
Directive therefore struck a reasonable
balance between the interests involved, in
particular the protection of consumer health,
encouraging innovation and scientific and

technological development, guaranteeing
undistorted competition and facilitating trade
under a harmonised system of civil liability;
whereas that Directive has thus helped to
raise awareness among traders of the issue
of product safety and the importance
accorded to it;

(3) Whereas the degree of harmonisation of
Member States' laws achieved by Directive
85/374/EEC is not complete in view of the
derogations provided for, in particular with
regard to its scope, from which unprocessed
agricultural products are excluded;

(4) Whereas the Commission monitors the
implementation and effects of Directive
85/374/EEC and in particular its aspects
relating to consumer protection and the
functioning of the internal market, which
have already been the subject of a first
report; whereas, in this context, the
Commission is required by Article 21 of that
Directive to submit a second report on its
application;

(5) Whereas including primary agricultural
products within the scope of Directive
85/374/EEC would help restore consumer
confidence in the safety of agricultural
products; whereas such a measure would
meet the requirements of a high level of
consumer protection;

(6) Whereas circumstances call for Directive
85/374/EEC to be amended in order to
facilitate, for the benefit of consumers,
legitimate compensation for damage to
health caused by defective agricultural
products;

(7) Whereas this Directive has an impact on
the functioning of the internal market in so far
as trade in agricultural products will no
longer be affected by differences between

rules on producer liability;

(8) Whereas the principle of liability without fault laid down in Directive 85/374/EEC must be extended to all types of product, including agricultural products as defined by the second sentence of Article 32 of the Treaty and those listed in Annex II to the said Treaty;

(9) Whereas, in accordance with the principle of proportionality, it is necessary and appropriate in order to achieve the fundamental objectives of increased protection for all consumers and the proper functioning of the internal market to include agricultural products within the scope of Directive 85/374/EEC; whereas this Directive is limited to what is necessary to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 85/374/EEC is hereby amended as follows:

1. Article 2 shall be replaced by the following: "Article 2 For the purpose of this Directive, 'product' means all movables even if incorporated into another movable or into an immovable. 'Product' includes electricity."
2. In Article 15, paragraph 1(a) shall be deleted.

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply these measures as from 4

December 2000.

When the Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

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

Article 3

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10 May 1999.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

H. EICHEL

(1) OJ C 337, 7.11.1997, p. 54.

(2) OJ C 95, 30.3.1998, p. 69.

(3) Opinion of the European Parliament of 5 November 1998 (OJ C 359, 23.11.1998, p. 25), Council Common Position of 17 December 1998 (OJ C 49, 22.2.1999, p. 1) and Decision of the European Parliament of 23 March 1999 (not yet published in the

Official Journal). Council Decision of 29 April 1999.

(4) OJ L 210, 7.8.1985, p. 29. Directive

as amended by the 1994 Act of Accession.

(5) OJ L 228, 11.8.1992, p. 24.