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COMMISSION OF THE EUROPEAN COMMUNITIES

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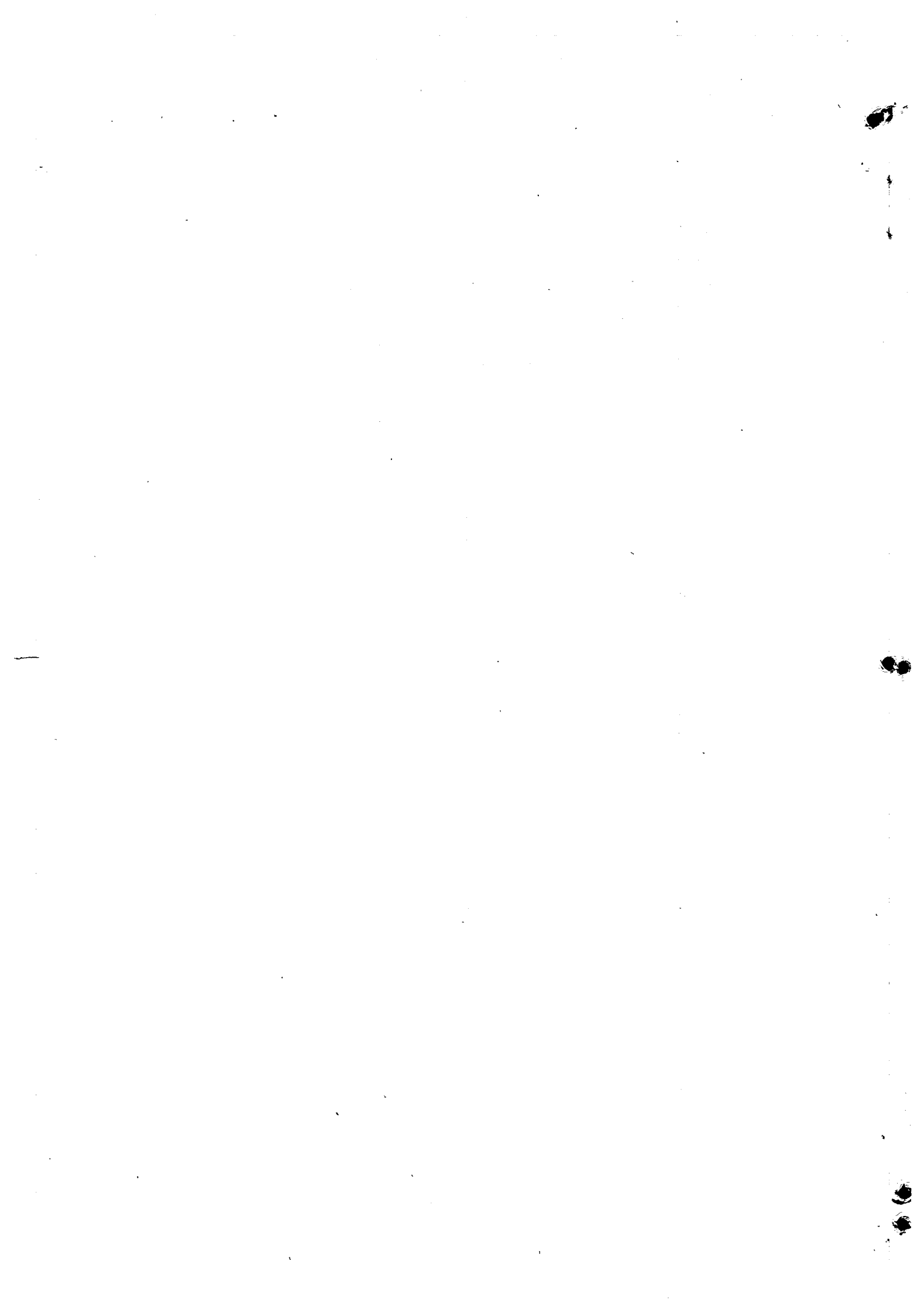
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GIFT & EXCHANGE

PROPOSAL FOR A COUNCIL DIRECTIVE
AMENDING FOR THE FIFTH TIME DIRECTIVE 76/769/EEC
ON THE APPROXIMATION OF THE LAWS, REGULATIONS
AND ADMINISTRATIVE PROVISIONS OF THE MEMBER STATES
RELATING TO RESTRICTIONS ON THE MARKETING AND USE OF
CERTAIN DANGEROUS SUBSTANCES AND PREPARATIONS

(presented by the Commission to the Council)

COM(79) 419 final



Explanatory Memorandum

I. GENERAL

1. In order to protect the general public, and particularly the users of dangerous substances and preparations, the Council, acting on a proposal from the Commission, adopted on 27 July 1976 a Directive relating to restrictions on the marketing and use of certain dangerous substances and preparations (1), which was last amended by Directive 79/663/EEC of July 1979 (2). This Directive affects only a relatively limited number of dangerous substances for the moment.

In the meantime, some Member States have promulgated statutory provisions, or are in the process of doing so, in order to restrict or completely prohibit the marketing or use of other dangerous substances, including certain types of asbestos. A community solution on harmonisation of national provisions is therefore essential, especially as in this case dangerous substances and preparations are involved.

2. Asbestos is the general name given to a group of fibre-like silicates such as crocidolite (blue asbestos), chrysotile (white asbestos), amosite, anthophyllite, actinolite, tremolite. Their most important properties are their non-inflammability and great tensile strength. For these reasons asbestos is used in many products, particularly as a building material, an insulating medium, and for sealings, filters, textiles, etc. In one form or another asbestos is said to be used in more than 3.000 products.

No doubt exists that the inhaling of asbestos fibres can and does cause serious illnesses. Diseases which are related to asbestos are asbestosis, lung cancer and mesothelioma.

3. The following proposal for a Directive has, apart from ensuring the free movement of goods within the European Community, the purpose of protecting life and health, and provides therefore for far-reaching restrictions on the marketing and use of dangerous types of asbestos. Of all the types of asbestos, crocidolite is currently considered the most dangerous. For this type, therefore, stricter measures have had to be introduced than for the other types.

(1) OJ No L 262, 27.9.1976, p. 201

(2) OJ No L 197, 3.8.1979, p. 37

4. As asbestos fibres represent a hazard for human beings the total harmonization solution was employed. All other Directives concerning dangerous substances and preparations were also drafted with this in mind, in accordance with the opinion of the European Parliament and of the Economic and Social Committee.
5. The proposal for a Directive is intended to meet the requirements of section 7, 16 and 17 of the Decision of the European Parliament on the danger of asbestos to health, which is adopted in its session of 16 December 1977. Since the proposal for a Directive lays down only certain restrictions and prohibitions, it must be supplemented by other provisions which are already the subjects of harmonization work in the Commission departments. These are, in particular, the proposal for a Directive concerning the protection of workers against the harmful effects of exposure to asbestos at the place of work, the examination of the problem caused by the direct contact of certain foodstuffs with substances containing asbestos, and environmental protection measures in general, covering asbestos emission, immission and waste.
6. Finally, the aim of the Directive is to induce producers and consumers to replace the use of dangerous types of asbestos with products that are safe or any rate less dangerous, for human health.
7. The following data give an idea of the economic impact of the proposal for a Directive :

The very large majority of the various asbestos fibres used in the Community are imported (about 800.000 tonnes in 1973); Italy is the only producer, with an output from mining of about 130.000 tonnes per year.

These fibers are used to make a very wide range of products and it is difficult to specify the precise quantity used per product, with the exception of a few main items such as asbestos-cement for building materials and pipes, fire-resistant panels, friction materials of floor coverings, and textile products.

The industry has already geared itself to follow the lines set out in the proposal for a Directive.

II. EXPLANATION OF THE ARTICLES

Article 1

This Article provides that a new section on asbestos fibres shall be added to the Annex to Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations. The section prohibits the use of crocidolite except in three cases. In regard to the other asbestos fibres it prohibits also certain uses, which are particularly dangerous to health.

Article 2 and 3

These Articles are common to all Directives.

III. PREPARATION OF THE PROPOSAL FOR A DIRECTIVE

The proposal for a Directive was prepared with the aid of advice from a Working Group consisting of experts from public health, hygiene, work safety, industry and commerce, and in close liaison with the professional and trade organizations.

IV. CONSULTATION OF THE EUROPEAN PARLIAMENT AND THE ECONOMIC AND SOCIAL COMMITTEE

Since implementation of the provisions in the proposal for a Directive will entail amendment of the legal provisions of Member States, the Opinion of both bodies is essential and must be obtained, as required by Article 100 (2) of the EEC Treaty.

PROPOSAL FOR A COUNCIL DIRECTIVE

amending for the fifth time

Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

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;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the use of asbestos and certain products containing it can release, to the detriment of human health, fibres and dusts which can cause asbestosis and cancer of the lung;

Whereas certain malignant tumours (pleural and peritoneal mesotheliomata) have an evident link with certain varieties of fibres and dusts, especially those of crocidolite;

Whereas prevention is the best way of protecting human health;

Whereas a very effective way of protecting human health and the environment is to prohibit the use of certain particularly dangerous fibres;

Whereas limitation of the use of other asbestos fibres or of products containing asbestos affords still greater protection;

Whereas this Directive concerns only the ban on the marketing and use of certain substances containing specific asbestos fibres; whereas it will also be advisable to study the future Community measures in order to propose special provisions relating to :

- (a) the protection of workers against the harmful effects of exposure to asbestos at the place of work;
- (b) the prohibition or limitation of direct contact between foodstuffs and substances containing asbestos fibres;
- (c) the protection of the environment in general;

Whereas on the basis of new knowledge it may be necessary to examine the extension of this Directive to other fibres likely to be used as substitutes for asbestos;

Whereas prohibitions already imposed by certain Member States affect the functioning of the common market, and whereas it is therefore necessary to approximate the relevant laws in the Member States and to amend accordingly the Annex to Council Directive 76/769/EEC¹⁾ as last amended by Directive 79/663/EEC²⁾;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following point is hereby added to the Annex to Directive 76/769/EEC:

1) O.J. No L 262, 27.9.1976, p. 201

2) O.J. No L 197 3.8.1979, p. 37

5. Asbestos fibres

5.1 Crocidolite, CAS No 12001-28-4
(blue asbestos)

5.1 The placing on the market and the use of these fibres or of products containing them is prohibited. However, their placing on the market and use for the following purposes shall be authorized:

- a) the manufacture of asbestos cement pipes,
- b) the manufacture of acid-resisting seals, gaskets and gland packings,

provided that the harmful release of fibres is prevented.

5.2 Other asbestos fibres:

Chrysotile, CAS No 12001-29-5
(white asbestos)

Amosite, CAS No 12172-73-5

Anthophyllite, CAS No 17068-78-9

Actinolite, CAS No 13768-00-8

Tremolite, CAS No 14567-73-8

5.2 The placing on the market and the use of these fibres or of products containing them is authorized. However, their placing on the market and use for the following purposes shall be prohibited:

- a) thermal and acoustic insulation,
- b) the filtering of air,
- c) roadway surfacing,

unless the harmful release of fibres is prevented.

5.3 All asbestos fibres.

5.3 The placing on the market and the use of asbestos containing products is prohibited when these are used solely for decorative purposes.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.

2. As soon as this Directive has been notified, Member States shall also ensure that the Commission is informed, in sufficient time for it to submit its comments, of any draft laws, regulations or administrative provisions which they intend to adopt in the field covered by this Directive.

Article 3

This Directive is addressed to the Member States.

