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Report

drawn up on behalf of the Committee on Public Health and the Environment

on the proposal from the Commission of the European Communities to the Council (Doc. 226/74) for a directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs

Rapporteur: Mrs E. ORTH

PE 38.284/fin.

By letter of 21 August 1974 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs.

On 16 September 1974 the European Parliament referred this proposal to the Committee on Public Health and the Environment as the committee responsible and to the Legal Affairs Committee for its opinion.

The Committee on Public Health and the Environment appointed Mrs Orth rapporteur on 1 October 1974.

It considered this proposal at its meetings of 1 and 22 October 1974.

At its meeting of 22 October 1974 the committee unanimously adopted the motion for a resolution and the explanatory statement.

The following were present: Mr Della Briotta, Chairman; Mr Jahn, Vice-chairman; Mrs Orth, rapporteur; Mr Adams, Mr Fellermaier (deputizing for Mr Brérégère), Mrs Fenner, Mr Martens, Mr E. Muller, Mr W. Müller, Mr Noè, Mr Springorum, Mr Walkhoff.

The opinion of the Legal Affairs Committee is attached.

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A

The Committee on Public Health and the Environment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹;
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 226/74);
 - having regard to the report of the Committee on Public Health and the Environment and the opinion of the Legal Affairs Committee (Doc. 321 /74);
1. Welcomes the Commission's proposal for a directive as a useful and essential step towards better and more effective protection of the health of the consumer;
 2. Criticizes once again, however, the tendency of the Commission and the Council to place the European Parliament under undue pressure by the belated submission of proposals for directives, and therefore appeals urgently to these institutions to give it adequate time to prepare its opinion on all future proposals;
 3. Endorses the Commission's demand that Community regulations for materials and articles coming into contact with foodstuffs should take account primarily of human health requirements but also, within the limits laid down for the protection of health, of economic and technological requirements;
 4. Notes that the present outline directive cannot by itself bring about any concrete change in the different practices in the individual Member States, and therefore calls upon the Commission to submit the promised implementing directives at an early date.

¹ OJ No. C 121, 11.10.1974, p. 27

5. Also urges the Commission to draw up as soon as possible the proposal on harmonization of the national regulations on piping for the supply of drinking water;
6. Supports the safeguard clause contained in Article 5, under which a Member State may temporarily prohibit or limit the use of a material or article, even though it complies with the rules laid down in the specific directives, if it considers it might endanger human health;
7. Repeats its long-standing demand that manufacturers should be obliged to give the information provided for the consumer on the materials or articles or their packaging in the language of the country of destination at least;
8. Calls upon the Commission to define the method of sampling and the methods of analysis needed to check compliance with the regulations not later than the date when the provisions of the directives become applicable in the Member States;
9. Confirms the view it has repeatedly maintained, namely that in its present form the procedure of the Standing Committee on Foodstuffs impinges on the responsibilities of the Commission, and therefore intends in the near future to hold an extensive debate with the Council and the Commission on the procedure of the Committee, in order to find a satisfactory solution to this long-standing problem;
10. Requests the Commission to make the following amendments to its proposal, pursuant to the second paragraph of Article 149 of the EEC Treaty;
11. Requests its appropriate committee to check carefully whether the Commission of the European Communities adopts the European Parliament's amendments to its proposal and, if necessary, to report on this matter;
12. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

Council Directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs

Introduction, recitals and Article 1 unchanged

Article 2

The Member States shall take all provisions necessary to ensure that foodstuffs may be marketed only if the materials and articles with which they are in contact comply with the rules laid down in this Directive.

They shall also see to it that the said materials and articles themselves may be marketed, or used only if they comply with the said rules.

Article 3

Materials and articles must not, under their normal or foreseeable conditions of use, transfer their constituents to foodstuffs in a quantity liable either to endanger human health or to entail an undesirable change in the composition of or a deterioration in the organoleptic characteristics of the said foodstuffs.

Article 2

Subject to the provisions of Article 4(3), the Member States shall take all measures necessary to ensure that foodstuffs may be marketed only if the materials and articles with which they are in contact comply with the rules laid down in this Directive.

unchanged

Article 3

- (1) Materials and articles intended to come into contact with foodstuffs may not be manufactured or treated in such a way that, when used in accordance with the provisions or in the intended manner, they are liable to damage human health by their composition, in particular by toxic substances or impurities.
- (2) Items may not be used as materials and articles, or marketed for such uses, in such a way that, under the normal or foreseeable conditions of use, substances which represent a danger to human health or entail an undesirable change in the composition of or a change in the organoleptic characteristics of foodstuffs are transferred to such

¹ For complete text see OJ No.C 121, 11.10.1974, p. 27

Article 4

1. The Council shall adopt, under the procedure provided for in Article 100 and by means of Directives, special provisions applicable to particular groups of materials and articles (specific Directives).

Such Directives may include in particular:

Sub-paragraphs (a) to (g) unchanged

Paragraphs 2 and 3 unchanged

Article 5

Paragraph 1 unchanged

2. A decision shall be taken forthwith under the procedure laid down in Article 9 in order to determine whether amendments should be adopted or whether the measures taken by the Member State should be revoked. Until a decision has been so taken, the measures taken by the Member State may remain operative

foodstuffs or the surfaces thereof.
An exception shall be made for
components which are harmless from
the point of view of health, odour
and taste and are unavoidable for
technical reasons.

Article 4

1. By 31 December 1976 at the latest the Council shall adopt, under the procedure provided for in Article 100 and by means of Directives, special provisions applicable to particular groups of materials and articles (specific Directives).

Such Directives shall include in particular:

Article 5

2. A decision shall be taken forthwith under the procedure laid down in Article 9 in order to determine whether the Directive covering the material or article should be amended or whether the measures taken by the Member State should be revoked. Until a decision has been so taken, the measures taken by the Member State may remain operative.

Article 6

Article 6

Paragraphs 1 and 2 unchanged

3. However, any Member State may prohibit retail trade in materials and articles on its territory if the items specified in paragraph 1(a) and (b) are not shown in its national language or languages on the labels or packaging.

3. However, each Member State shall prohibit retail trade in materials and articles on its territory if the items specified in paragraph 1 (a) and (b) are not shown in its national language or languages on the labels or packaging.

Articles 7 to 9 unchanged

Article 10

This Directive does not apply to materials and articles or foodstuffs intended to be exported outside the Community.

Article 10

This Directive does not apply to materials and articles or foodstuffs proved to be destined for export outside the Community.

Articles 11 to 13 unchanged

EXPLANATORY STATEMENTI. General

1. Submission of this proposal for a directive was provided for in the Council Resolution of 17 December 1973 on industrial policy¹.

In this Resolution the Council undertook to adopt this proposal for a directive by 1 January 1975. At the same time it asked the Commission to submit the proposal as soon as possible.

This proposal was not submitted, however, until the beginning of August 1974, i.e. about 8 months after the request by the Council. The Council wishes Parliament to deliver its opinion at the October part-session. The Committee on Public Health and the Environment is therefore once again obliged to work against time; this could have been avoided if the Commission had submitted the proposal for a directive sooner.

Your committee can therefore only urge the Commission and the Council once again to do everything possible to give the European Parliament and its committees enough time to draft their opinions.

2. The proposal for a directive is rightly based on Article 100 of the EEC Treaty. It has been found, in fact, that considerable differences exist between the national provisions laid down by law, regulation or administrative action relating to materials and substances intended to come into contact with foodstuffs. To eliminate the negative effects of these differences - unequal conditions of competition and therefore barriers to the free movement of goods in the Community - approximation of the laws of the Member States is essential in the areas covered by the proposal for a directive.

The Commission's proposal is also based on Article 227 of the EEC Treaty, as the directive also applies to the French overseas departments.

3. In drawing up its proposal the Commission consulted government experts, professional associations, and representatives of European consumer organizations. By consulting consumers, the Commission has complied with the wish frequently expressed by the European Parliament and its Committee on Public Health and the Environment. Your committee particularly welcomes this as the directive under consideration in fact involves important consumer interests.

¹ OJ No. C 117, 31 December 1973, page 1

4. It should also be noted that this is an outline directive, the purpose of which is to establish general principles. With the aid of subsequent implementing directives it is intended, on the basis of these general principles, to eliminate the differences which still exist between the laws of the Member States. This is also indicated in the above-mentioned Council resolution on industrial policy which states that the outline directive 'will be followed by implementing directives as the work in specific sectors progresses'¹.

While your committee is convinced of the need for the outline directive, it believes that it cannot by itself bring about any concrete changes in the differing practices in the individual Member States. The promised implementing directives are required for that purpose. The Commission is therefore asked to submit these implementing directives at an early date so that the harmonization urgently required in connection with materials and substances coming into contact with foodstuffs will become a reality in the Common Market within the foreseeable future.

Moreover, your committee believes that the Commission should not simply confine itself to proposals for sectoral directives but should attempt to cover, by means of general Community legislation, all materials and articles that come into contact with the human body.

5. Your committee confirms the Commission's statement in the first recital that laws in this field should take account primarily of human health requirements but also, within the limits laid down for the protection of health, of economic and technological requirements.

Your committee was guided by this principle in its consideration of the individual articles of the proposal for a directive. The results of its deliberations are given below.

¹ OJ No. C 117, 31 December 1973, page 4, footnote

II. Substance of the proposal for a directive

6. Article 1 defines the scope of the directive. It applies to all foodstuffs. Chewing-gum, drinking water and 'beverage waters' are considered as foodstuffs. Piping for the public supply of drinking water is excluded from the scope of the directive. In the explanatory memorandum (page 2), the Commission points out that the special provisions in force in the Member States for the latter may more simply be approximated by means of a specific directive on the subject.

Your committee agrees with the Commission's view on this point; however, it asks the Commission to submit a proposal for the specific directive at an early date. In view of the importance to health policy of harmonizing the national provisions governing piping for drinking water this request is fully justified.

7. Article 2 requires the Member States to take all the provisions necessary to ensure that foodstuffs and materials and articles with which they are in contact may be marketed only if they comply with the rules laid down in this directive.

8. Under Article 3, materials and articles must not, under their normal or foreseeable conditions of use, transfer their constituents to foodstuffs in a quantity liable either,
- to endanger human health,
- entail an undesirable change in the composition of, or
- a deterioration in the organoleptic characteristics of the said foodstuffs.

In principle your committee agrees with this prohibition.

However, it is not clear why the (German)⁺ text refers to a 'detrimental change' in the organoleptic characteristics of the foodstuffs. It is certainly in the interests of the consumer for the predetermined organoleptic characteristics of the foodstuffs to be preserved. Any change in these characteristics as a result of contact with other substances necessarily results in adulteration and often a loss of quality in the foodstuffs which is without doubt to the detriment of the consumer.

Your committee therefore requests the Commission to delete the word 'detrimental' and accordingly forbid any change in the organoleptic characteristics.

⁺ Translator's note: these comments apply specifically to the German text but have implications for texts in other languages.

9. Article 4 requires the Council, under the procedure provided in Article 100 of the EEC Treaty and by means of specific directives, to adopt special provisions applicable to particular groups of materials and articles.

It is obvious that the outline directive cannot become effective in practice without the specific directives. The committee should therefore set the Council a definite time limit for the adoption of this specific directive. Having consulted the Commission's expert, it considers that 31 December 1976 would be a realistic deadline.

Accordingly, the Commission should be requested to amend the beginning of Article 4 as follows: 'By 31 December 1976 at the latest the Council shall adopt...'

Article 4 also stipulates which provisions 'may be' included in particular in the specific directives. These are

- a list of substances the use of which is authorized (positive list principle),
- their purity standards,
- their special conditions of use,
- the specific limits on the migration of certain constituents into or onto foodstuffs,
- an overall limit on the migration of constituents into or onto foodstuffs,
- rules designed to ensure that the provisions of Article 3 are complied with,
- the basic rules necessary for the purpose of checking compliance with certain specific provisions.

Your committee objects here that the scope of the specific directives has not been accurately defined and that it is left to the discretion of the Council to decide which areas will be covered by the specific directives. It seems advisable to make this provision compulsory and thus to establish that the specific directives shall include in particular the rules given above.

10. Where amendments to the rules laid down in the specific directives become necessary on account of the development of scientific and technical knowledge, Article 4(2) stipulates that they are to be made largely under a procedure in which the Standing Committee on Foodstuffs set up by the Council decision of 13 November 1969 shall act in an advisory capacity. This procedure is defined in Article 9.

The Committee on Public Health and the Environment signifies its agreement with Article 4(2), as it involves technical measures designed to simplify and standardize the procedure.

The same applies to the rules provided for in Article 8 on the sampling procedures and methods of analysis required to check compliance with the specific directives; these rules are also to be laid down under the procedure involving the Standing Committee on Foodstuffs.

11. Article 4(3) contains a derogation. Where a list of authorized substances and preparations has been established, the Member States may authorize the use within their territory and under official control of a substance not included in that list. The Member States must inform the other Member States and the Commission within two months of any such authorizations and furnish supporting evidence.

Your committee wondered why a time limit of two months is laid down for this obligation to notify, and considered reducing this time limit to two weeks. In the view of the Committee this would have been in the interests of rapid notification of all competent bodies in the Community. However, the Commission's representative pointed out that a two week time limit would not be practicable in every case. Your committee therefore accepts the two months time limit proposed by the Commission.

This authorization granted at national level is, however, only provisional. Within a 'reasonable period' allowing the national authorization, a decision must be taken under the Committee procedure laid down in Article 9 as to whether the substance concerned is to be included in the list of substances allowed in the Community or whether the authorization in the Member States is to be revoked.

Your committee noted that the phrase 'reasonable period' would give rise to different interpretations. It felt that it would also be in the interests of all concerned for a definite decision on the possibility of final authorization at Community level to be taken as soon as possible. Your committee therefore considered amending this provision so that this decision must be taken within three months of authorization of the substance by a Member State.

However, the representative of the Commission stated that in similar cases this provision had worked well and that, although it was usually possible, the three month time limit requested by your committee could not always be met.

Under these circumstances your committee approves the Commission's proposal in its present form.

12. Article 5 contains a safeguard clause which is welcomed by the committee. Under this clause a Member State may temporarily suspend or restrict the use of a material or article complying with the provisions of the special directives (Article 4(1)), if it considers that such use represents a danger to human health. The Member State must inform the other Member States and the Commission forthwith of the measures taken.

Article 5(2) requires a decision to be taken forthwith under the committee procedure (Article 9) to determine whether the Community directive should be amended by a prohibition of or restriction on the use of the materials and articles concerned or whether the measures taken unilaterally by the Member State should be revoked. The measure may remain operative until such a decision has been taken at Community level.

13. Article 6 contains rules on the labelling of articles and materials. As the Commission states in the explanatory memorandum (p.3), this article embodies the principle of positive labelling. Under this principle, all materials and articles intended to come into contact with foodstuffs must either bear the words 'for food use', an appropriate symbol or particulars of any special conditions of use. These indications are designed to provide adequate information for the consumer and assure him that what has been purchased is suitable for domestic use.

Provision has also been made to require the name (or business name) and address (or registered office) or the registered trade mark of the manufacturer or processor or the seller established within the Community to be shown. This rule ensures that the party responsible can be identified if the products fail to comply with the rules. Your committee also approves this provision without reservation.

The provision to the effect that the prescribed information must be indicated in a clearly visible, easily legible and indelible form

- either on the materials or articles themselves, or
- on the relevant labels or on the packaging of the materials or articles

is also welcomed.

At the stages preceding the retail stage this information may be indicated on the accompanying documents.

In this connection the Commission representative specified that retailers were required to display all the prescribed information on the materials or articles, their labels or packaging to ensure that consumers are adequately informed. Such information is obviously not required in cases where the

materials or articles are already in contact with foodstuffs, for example full tins or milk bottles.

14. Under Article 6(3) the Member States may prohibit retail trade in materials and articles if the requisite declarations are not shown in their national languages. It is therefore for the individual Member States to decide whether or not they place value on clear labelling which the consumer will understand. The consumer cannot be expected, however, to understand correctly information given in a foreign language. There is thus a risk of errors and misunderstandings at the consumer's expense.

In similar cases your committee has therefore always asked for this provision to be made compulsory. Therefore, in accordance with its previous custom, it insists that Article 6(3) should be amended as follows:

'However, Member States shall prohibit retail trade in materials and articles on their territory if the items specified in paragraph 1(a) and (b) are not shown in their national languages on the labels or packaging.'

As to this, the Commission's representative stated that the Commission was at present engaged in a thorough examination of this problem within the context of preparations for a horizontal directive on labelling. He hoped that a solution would be found which would meet the approval of the European Parliament.

15. Article 7 contains the usual provisions on the marketing of products which are common to all harmonizing directives relating to laws on foodstuffs. These provisions require the Member States to ensure that the marketing of foodstuffs which are in contact with materials or articles and the marketing of these materials and articles themselves - insofar as such marketing is in accordance with this directive - is not hindered by the application of non-harmonized national provisions governing the composition, behaviour in the presence of foodstuffs or labelling of materials and articles. The above stipulations shall not apply to non-harmonized provisions justified on the grounds of public health, protection of industrial and commercial property, indications of source and origin and the suppression of fraud and unfair competition.

Your committee states its agreement with the provisions of Article 7.

16. While your committee also agrees with the stipulation that the provisions laid down in Article 8 on the sampling procedures and methods of analysis required in order to check compliance with specific directives shall be determined in accordance with the Standing Committee on Foodstuffs procedure, it nevertheless insists, in the interests of the proper implementation of the directive, that a deadline should be set for the adoption of these provisions.

In keeping with its invariable practice in similar cases your committee therefore asks that these provisions should be adopted at latest by the date fixed in Article 11 for the application of laws amended on the basis of the directive. This is the only way to guarantee that the application of the directive will from the outset be as effective, complete and uniform as possible in all Member States.

This request is also practical in view of the generosity of the time limit laid down in Article 11(1) for the application of the amended laws in the Member States (three years from notification of the directive)¹. The necessary sampling procedures and methods of analysis can also undoubtedly be determined within this time limit.

Since the Commission's representative could not, however, give any binding undertaking, your committee has confined itself to embodying its request in the motion for a resolution.

17. Article 9 lays down the procedure of the Standing Committee on foodstuffs.

This time your committee has refrained from recommending the usual amendments in accordance with the views of the European Parliament on the institutional aspect of this problem. It notes that on this matter the Commission rigidly maintains its stand.

This does not, however, mean that your committee has given up its request. It demands that an extensive debate should be held as soon as possible with the Council and the Commission in order to find a satisfactory solution to this long-standing problem of procedure. This is clearly expressed in paragraph 9 of the motion for a resolution.

18. Under Article 10 the directive does not apply to materials and articles or foodstuffs intended to be exported outside the Community. Your committee has always urged in similar cases - and the plenary assembly of the European Parliament has followed its example - that products intended for export to third countries must be labelled differently, so as not to fall within the scope of Community rules. This is to prevent evasion of the directive by the manufacturing and storing of certain products allegedly intended for third countries.

However, the Commission's representative pointed out that consideration would also be given to Parliament's demand if proof could be given that the goods were destined for export outside the Community. Your committee therefore requests that Article 10 be amended as follows: 'This directive does not apply to foodstuffs and materials or articles proved to be destined for export outside the Community'.

¹ See paragraph 19 of the explanatory statement

19. Article 11(1) requires Member States to amend their laws in accordance with the provisions of the directive within 1 year of notification of this directive and to inform the Commission thereof forthwith. The laws so amended shall apply to materials and articles and foodstuffs manufactured in or imported into the Community on or after a date two years from the notification of this directive.

Your committee agrees to these relatively generous time limits, but it nevertheless insists that in adopting the directive the Council shall adhere to these time limits and not extend them.

Article 11(2) contains the usual provision requiring Member States to inform the Commission, in good time to enable it to submit its comments, of subsequent provisions by way of law, regulation or administrative action which they intend to adopt in the field covered by this directive.

20. Article 12 stipulates that the directive shall also apply to the French Overseas Departments.

III. Consideration of the opinion of the Legal Affairs Committee

21. The Committee on Public Health and the Environment gave thorough consideration to the opinion unanimously adopted by the Legal Affairs Committee (PE 38.126 final) at its meeting of 4 October 1974. The full text of this opinion is attached to the present report.

Your committee noted that the Legal Affairs Committee agreed that Article 100 of the EEC Treaty was suitable as the legal basis for the present directive and recommended that Article 6 (3) (labelling in the national languages) should be made compulsory.

22. In addition, the Legal Affairs Committee took the view that the following amendments should be made to the text of the proposal for a directive:

(a) Article 4 (3) contains certain provisions 'by way of derogation from Article 2'. However, no reference to those provisions appears in Article 2 and it would be desirable to amend Article 2 (1) by inserting at the beginning the words 'subject to the provisions of Article 4(3)'. .

(b) Article 5(2) provides for application of the procedure under Article 9 for a decision at Community level when a Member State has suspended or restricted, pursuant to Article 5(1), the application of provisions on the grounds of danger to human health. The Legal Affairs Committee suggests that, for greater clarification, the first sentence of Article 5(2) should be amended as follows: 'A decision shall be taken forthwith under the procedure laid down in Article 9 in order to determine whether the specific directive with which the material or article complies should be amended or whether the measures taken by the Member State should be revoked'.

(c) Pursuant to the second paragraph of Article 2 materials and articles may be marketed only if they comply with the rules laid down in the directive. In the interests of added precision, the Legal Affairs Committee expressed the wish that this condition for the marketing of materials and articles should apply 'at all stages of the manufacture or marketing of foodstuffs'. .

(d) Under Article 6(1) materials and articles marketed as such must be accompanied by certain items of information. The Legal Affairs Committee objects to the lack of precision in this formulation and suggests that Article 6(1) should be amended to read: 'Without prejudice to the rules contained in the specific directives, all materials and articles falling within the scope of the present directive must be accompanied when marketed by the following'.

23. Your committee agrees to the amendments listed in paragraph 22 (a) and (b) since they make for greater clarity.

On the other hand, your committee has decided after consulting the Commission's representative not to adopt the amendments proposed in paragraph 22 (c) and (d) as they are impracticable and hence unsuitable.

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Letter of 7 October 1974 addressed to the Chairman of the Committee on Public Health and the Environment by the Chairman of the Legal Affairs Committee.

Dear Mr Chairman,

The Legal Affairs Committee examined the proposal of the Commission of the European Communities for a Council Directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs (Doc. 226/74) at its meeting of 4 October 1974 and approved it unanimously¹.

The legal basis of the proposed directive is Article 100 of the EEC Treaty. The Commission has found that the existing divergencies between national legislative provisions hinder the free movement of the materials and articles concerned, whose manufacture and sale is of particular importance, and create unequal conditions of competition, which directly affect the functioning of the Common Market.

The Legal Affairs Committee endorses the principle on which the proposal for a directive is based. However, the committee suggests that the proposal be amended in accordance with the following points:

1. In order that there may be no gaps in the control of the materials and articles which could lead to a loss of protection for the consumer, it is suggested that Article 2(2) should be given added precision by the inclusion, after the word 'used', of the phrase: 'at any stage of the manufacture or commercialisation of foodstuffs'.
2. In Article 4(1) a reference to Article 100 is made, but no indication is given that it is Article 100 of the EEC Treaty. Article 4(1) should therefore be amended to read 'Article 100 of the EEC Treaty'.
3. Article 4(3) contains provisions which it expresses to be 'by way of derogation from Article 2'. No reference to those provisions appears in Article 2 and it would be desirable to amend Article 2(1) by inserting at the beginning the words 'subject to the provisions of Article 4(3)'.

¹ Present: Mr SCHUIJT, chairman, Mr ADAMS (deputizing for Mr Calewaert), Mr ALBERTSEN, Mr BREWIS, Mr BROKSZ, Mr D'ANGELOSANTE, Mr De KEERSMAEKER, Mrs IOTTI, Mr LABAN (deputizing for Mr Caillavet), Mr LAUTENSCHLAGER, Lord MANSFIELD, Mr MEMMEL, Mr OUTERS, Mr RIVIEREZ, Mr SCELBA, Mr SCHMIDT, Mr SCHWÖRER, Mr SPRINGORUM, Mr VERNASCHI, Mr YEATS.

4. Article 5(2) applies the procedure under Article 9 for a decision at Community level when a Member State has temporarily suspended the application of the provisions of a specific directive under Article 5(1). In Article 5(2) it seems that the phrase 'whether amendments should be adopted' concerns amendments to the specific directive in question and it is therefore suggested that that phrase should be deleted and replaced with one reading 'whether the specific directive with which the material or article complies should be amended'.

5. There are set out in Article 6(1) rules relating to the marketing of 'materials and articles as such'. The phrase 'as such' has little apparent meaning in this context and it would be preferable to amend Article 6(1) to read: 'without prejudice to the rules contained in the specific directives, all materials and articles which are within the scope of the present directive must be accompanied when marketed by the following'.

6. It is desirable, if the consumer is to be properly protected, that the use of the national language or languages under Article 6(3) be made compulsory. This would also ensure uniform application of the provision in question in all Member States. It is therefore proposed that Article 6(3) be amended to read as follows: 'A Member State shall prohibit retail trade in materials and articles on its territory if the items specified in para. 1(a) and (b) are not shown in its national language or languages on the labels or packaging'.

The Legal Affairs Committee expresses the hope that the texts of the proposed directive, in all the languages, will be subjected to a thorough linguistic review by the European Commission in view of the fact that various discrepancies have been noted.

Subject to what has been said above, the Committee recommends the approval of this proposal.

Yours faithfully,

Dr W.J. SCHUIJT

