

4414.311 (Ceramic Ware)

European Communities

EUROPEAN PARLIAMENT

Working Documents

1975-1976

10 April 1975

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DOCUMENT 18/75

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. 458/74) for a directive on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with food (limitation of extractable quantities of lead and cadmium)

Rapporteur : Mr H.E. JAHN

PE 39.982/fin.

1.2.2

English Edition

By letter of 20 January 1975 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 ceramic articles intended to come into contact with food (limitation of extractable quantities of lead and cadmium).

The President of 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 and the Committee on Economic and Monetary Affairs for their opinions.

On 24 February 1975 the Committee on Public Health and the Environment appointed Mr Jahn rapporteur.

It considered the proposal at its meetings of 24 February and 21 March 1975.

On 21 March 1975 the committee adopted the motion for a resolution and the explanatory statement by 10 votes to one.

Present: Mr Della Briotta, chairman; Mr Jahn, vice-chairman and rapporteur; Mr Jakobsen, vice-chairman; Mr Herbert, Mr Liogier, Mr Martens, Mr Meintz, Mr Noè, Mr Premoli, Mr Rosati and Mr Springorum.

The opinions of the Legal Affairs Committee and the Committee on Economic and Monetary Affairs are attached.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	10
Opinion of the Legal Affairs Committee	20
Opinion of the Committee on Economic and Monetary Affairs ...	22

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 ceramic articles intended to come into contact with food (limitation of extractable quantities of lead and cadmium)

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. 458/74);
 - having regard to the report of the Committee on Public Health and the Environment and the opinions of the Legal Affairs Committee and the Committee on Economic and Monetary Affairs (Doc.18 /75);
1. Welcomes the Commission's proposal as an essential component of a Community environmental protection policy;
 2. Reiterates its basic demand that provisions for the harmonization of legislation in the field of environmental protection must take account primarily of human health requirements but also, within the limits laid down for the protection of health, of economic and technological requirements;
 3. Approves the Commission's choice of Article 100 of the EEC Treaty as the legal basis for its proposal and unreservedly supports the method of total harmonization on which the proposal for a directive is based;
 4. Rejects outright the negotiation of any compromise where human health is at stake, and stresses the need to choose the most stringent solution if the experts are unable to reach agreement;

¹ OJ No. C 46, 27 February 1975, p.1

5. Calls upon the Commission therefore to lower the limit values proposed in Article 3(1) sufficiently to ensure that no expert can harbour any justifiable doubts as to the harmlessness of the ceramic articles corresponding to these values;
6. Considers it indispensable for ceramic articles which come into contact with food to be clearly and unambiguously marked in such a way that the consumer is made aware of the possible risks involved in using these articles;
7. Requests the Commission to lay down a clear system of marking for all four categories dealt with in the directive instead of limiting such marking to certain articles only;
8. Reiterates its long-standing demand that manufacturers be compelled to provide consumers with the necessary information at least in the languages of the country of destination;
9. Reaffirms the view it has always held that the procedure of the Committees on Implementing Provisions infringes on the Commission's responsibilities and therefore intends to establish its position definitively in the near future with a view to finding a satisfactory solution to the long-standing problem of the committee procedure;
10. Feels that it would both be realistic and take sufficient account of manufacturers' interests if the legal provisions of the Member States needed to comply with this directive were published by 1 January 1976 and implemented from 1 July 1976;
11. Approves the testing conditions and methods of analysis laid down in the annexes, relying in this connection on the expertise of the specialists consulted by the Commission;
12. Requests the Commission to incorporate the following amendments in its proposal pursuant to the second paragraph of Article 149 of the EEC Treaty;
13. Requests its committee responsible to check carefully whether the Commission of the European Communities changes its proposal in accordance with the European Parliament's amendments and, if necessary, to report on this matter.

PROPOSAL FOR A COUNCIL DIRECTIVE ON THE APPROXIMATION OF THE
LAWS OF THE MEMBER STATES RELATING TO CERAMIC ARTICLES INTENDED
TO COME INTO CONTACT WITH FOOD (LIMITATION OF EXTRACTABLE
QUANTITIES OF LEAD AND CADMIUM)

Preamble and Recitals unchanged

Articles 1 and 2 unchanged

Article 3

1. At any marketing stage, any ceramic article tested in the manner laid down in Annex II shall be such that the quantities of lead and cadmium do not exceed, according to the case, the following limit values:

(a) Tableware and kitchenware

- Flatware:

Lead $1 \pm 0.05 \text{ mg/dm}^2$

Cadmium $0.1 \pm 0.005 \text{ mg/dm}^2$

- Hollow ware articles with a capacity of up to 5 litres:

Lead $5 \pm 0.25 \text{ mg/l}$

Cadmium $0.5 \pm 0.025 \text{ mg/l}$

(b) Plates specially designed for very young children

Lead $2.5 \pm 0.25 \text{ mg/l}$

Cadmium $0.25 \pm 0.025 \text{ mg/l}$

(c) Cooking ware

- Flatware:

Lead $0.5 \pm 0.025 \text{ mg/dm}^2$

Cadmium $0.05 \pm 0.0025 \text{ mg/dm}^2$

- Hollow ware articles:

Lead $2.5 \pm 0.25 \text{ mg/l}$

Cadmium $0.25 \pm 0.025 \text{ mg/l}$

(d) Hollow ware articles

Lead $2.5 \pm 0.25 \text{ mg/l}$

Cadmium $0.25 \pm 0.025 \text{ mg/l}$

Article 3

1. (To be amended in accordance with paragraph 8 of the explanatory statement)

¹ OJ No. C 46, 27 February 1975, p.1

Paragraphs 2, 3 and 4 unchanged

Article 4

Paragraph 1 unchanged

2. The labelling or marking shall contain the following information in readily legible and clearly visible characters:

- (a) The name or trade name and the address or, where appropriate, the registered trademark of the producer or the importer or the person responsible for placing the article on the market;
- (b) Where appropriate, the words 'for children';
- (c) Where appropriate, the words 'for cooking';
- (d) Where appropriate, in the case of packaging sold empty to the final consumer and with a capacity of up to 5 litres, the word 'packaging'.

3. Member States may require that at the time of offer and sale to the final consumer in their territories, the labelling or marking specified in this article shall also be expressed in their national languages.

In this case this requirement shall apply only to the labels and packaging of ceramic articles.

Article 5

For reasons concerning the extraction limits for lead and/or cadmium and the labelling or marking requirements, Member States shall not prohibit or impede the placing of ceramic articles on the market if these articles satisfy the provisions of this Directive and its Annexes.

Article 4

2. The labelling or marking shall contain the following information in readily legible and clearly visible characters:

- (a) The name or trade name and the address or, where appropriate, the registered trademark of the producer or the importer or the person responsible for placing the article on the market;
- (b) Where appropriate, the words 'tableware' or 'kitchenware';
- (c) Where appropriate, the words 'for children';
- (d) Where appropriate, the words 'for cooking';
- (e) Where appropriate, the words 'packaging' or 'storage container';
- (f) Where appropriate, the warning 'not for cooking purposes'.

3. Member States shall require that at the time of offer and sale to the final consumer in their territories, the labelling or marking specified in this article shall also be expressed in their national languages.

In this case the requirement shall apply only to the labels and packaging of ceramic articles.

Article 5

deleted

Articles 6 and 7 unchanged

Article 8 unchanged¹

Article 9

1. Member States shall adopt and publish before 1 January 1977 the provisions needed to comply with this Directive and shall forthwith inform the Commission thereof.

They shall implement these provisions as from 1 July 1977.

2. As soon as this Directive is notified, the Member States shall also take care to inform the Commission, in time to enable it to make its observations, of any proposed provisions, to be laid down by law, regulation or administrative action, which they propose adopting in the field governed by the Directive.

Article 9

1. Member States shall adopt and publish before 1 January 1976 the provisions needed to comply with this Directive and shall forthwith inform the Commission thereof.

They shall implement these provisions as from 1 July 1976.

2. unchanged

Article 10 unchanged

Annexes I - III unchanged

¹ See proviso in paragraph 13 of the Explanatory Statement

EXPLANATORY STATEMENTI. GENERAL CONSIDERATIONS

1. Article 4 of the Commission's proposal 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 (Doc. 226/74) requires that special provisions applicable to particular groups of articles be laid down in specific directives.

The European Parliament gave its opinion on the above-mentioned proposal for a directive, which was intended to provide initially an outline directive, on the basis of a report drawn up by Mrs Orth on behalf of your Committee on Public Health and the Environment (Doc. 321/74). In paragraph 4 of the resolution adopted on 11 November 1974 in connection with this proposal for a directive, the European Parliament '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

One of these implementing directives has now been submitted, and your committee welcomes this. It hopes that further implementing directives will follow in the near future so that the harmonization urgently required in the field of materials and articles coming into contact with foodstuffs will become a reality in the Common Market within the foreseeable future².

2. The proposal for a directive is based on Article 100 of the EEC Treaty. This choice is justified since the provisions in individual Member States relating to ceramic articles designed to contain foodstuffs differ widely. This creates barriers to the free movement of goods in the Community, and an approximation of the national laws and regulations in the field covered by the proposal for a directive is therefore indispensable.

3. In drawing up its proposal, the Commission consulted the various parties concerned. The German text specifies that the organizations of manufacturers of ceramic articles and the consumer associations attended the meetings of the working party appointed by the Commission. The French and English texts, however, provide no information as to which organizations were consulted. Since the German version itself mentions only 'consumer associations' in general, the Commission was asked to specify which consumer associations were

¹OJ No. C 155 of 9.12.1974, p.10

²See second paragraph of point 4 of the explanatory statement in the report by Mrs Orth (Doc. 321/74).

involved. The Commission replied that the representatives of European consumer associations were consulted. Your committee welcomes this since the proposal for a directive does in fact concern important consumer interests.

4. The Commission rightly notes in its second recital that most of the Member States have adopted mandatory provisions, aimed at protecting human health, in respect of the extractable quantities of lead and cadmium permissible in ceramic articles intended to come into contact with food.

Your committee assumes that this objective was also the main consideration underlying the present proposal for a directive. In this connection it reaffirms its basic request to the Commission that Community regulations 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. In examining the Commission's proposal, your committee was guided by this consideration.

II. Substance of the proposal for a directive

5. Article 1 defines the scope of the directive. It applies to the following four categories of ceramic articles intended to come into contact with food:

- tableware and kitchenware,
- plates specially designed for very young children,
- cooking ware,
- packaging and storage containers.

It also applies to any other article that may be used for the purposes indicated unless a direction to the contrary is duly stated on the article itself in a clear and perfectly visible fashion. This means that any ceramic article not marked in this way must comply with the provisions of the directive.

In its notes on Article 1, the Commission draws attention to the fact that the directive specifies neither the kind of article which has to bear this 'negative marking' nor the form which such marking should take. Your committee deplores this omission. It considers it indispensable that clear and unambiguous warning markings should be made compulsory so as to protect consumers. In practice confusion could easily arise since in many cases articles of a purely artistic or decorative nature can be designed in a shape identical to that of domestic articles.

Moreover it is not clear what the Commission means when it says that the directive does not specify the kind of article which has to bear this 'negative marking'. The most obvious interpretation of Article 1 is surely that every ceramic article which does not satisfy the conditions of the directive must be accordingly marked. The Commission is requested to explain this contradiction.

6. According to Article 2, ceramic articles intended to come into contact with food may only be marketed if they satisfy the requirements of the directive and its annexes. Moreover, ceramic articles which have the appearance of the articles within the meaning of this directive but do not satisfy the conditions of the directive may only be marketed if they bear appropriate markings.

The aim is therefore total harmonization, which should always be the method chosen where Community legislation in the field of health protection is concerned. Limitation of the extractable quantities of lead and cadmium is a measure designed to protect human health and the degree of this protection must be the same for all inhabitants of the Member States of the European Communities.

Consequently, your committee unreservedly supports the choice of total harmonization.

7. Article 3 lays down the extraction limits for lead and cadmium for the four categories of ceramic articles, a distinction being made between flat articles and hollow ware. The limit values for flat articles are expressed in milligrammes per square decimeter (mg/dm^2), and for hollow ware in milligrammes per litre (mg/l). This distinction is logical, since account must be taken of the fact that in the case of hollow ware the surface area/volume ratio varies relatively little, while in the case of flat articles this ratio may vary widely, i.e. a relatively high increase in volume will bring with it only a relatively low increase in the surface area covered. In addition, flat articles are generally in contact with solid foods, which means that the risk of lead or cadmium contamination is lower than in the case of hollow articles, which are generally filled with liquid.

8. As the Commission states in its notes on Article 3, the fixing of these limit values was one of the most difficult tasks faced by the working party responsible. The values proposed by the Commission in Article 3 represent a compromise; not all experts find them satisfactory. Some consider the proposed values too high, others too low. These experts have therefore expressed reservations on the limit values laid down by the Commission.

In the course of the discussions it was proposed that the limit value for lead in tableware and kitchenware (flatware) should be raised from 1 mg/dm² to 1.5 mg/dm², and in cooking ware from 0.5 mg/dm² to 1.5 mg/dm², on the grounds that the limit values proposed by the Commission would present problems for British manufacturers of ceramic articles. This proposal was rejected by your committee by 7 votes to one.

The majority of the committee members could not accept a compromise solution where the health of consumers is involved. They recalled that on previous occasions when the Commission had submitted harmonization proposals in the field of health protection the committee had always maintained that in the event of any doubt, the most stringent solution should be chosen. In other words, if the experts themselves cannot agree and have serious doubts as to the harmlessness of ceramic articles for which the lead and cadmium extraction limits have been set too high, the legislators must take the safest course and, in the interest of public health protection, lay down limit values so low that every expert can approve them with a clear conscience.

The doubts expressed by a number of experts conflict with the Commission's statement in its explanatory notes (page 9 at the top) that experience had proved that ceramic articles which met the limits laid down in the directive, or values of the same order of magnitude, could be used in complete safety. Moreover, the proposed values correspond to the use of a simulating solvent, acetic acid, which is considerably more aggressive than the actual foodstuffs.

On the other hand, the Commission itself agrees, in its notes on Article 3 (page 9 at the bottom), that 'these limits have been adjusted to the potential of modern technology, and recent progress in this field makes it possible to foreshadow even better results in the near future and therefore to consider revision of the suggested limits then'. This can only mean that protection of the population's health is being made dependent on technological progress. Most members of the committee have serious reservations about any attempt to solve the problem in this way. If some experts protested against limit values which they considered too high, it must be assumed - and this was expressly confirmed by the Commission representative - that they did not intend to cripple the ceramic industry, but simply felt that it was perfectly possible to manufacture ceramic articles which corresponded to the lower extraction limits for lead and cadmium approved by them. These experts agree that, owing to the rapid scientific and technical progress achieved over the past few years, production of ceramic articles with a low level of lead and cadmium extraction no longer presents any technological problems. Of course, it will be difficult to persuade manufacturers to abandon their traditional manufacturing processes and to switch over to more modern production methods based on the most recent scientific and technological knowledge. However, this is indispensable if the health of the Community's population is to be adequately protected.

Your committee therefore asks the Commission to lower the limit values proposed in Article 3 sufficiently to ensure that no expert can harbour any more doubts as to the harmlessness of the ceramic articles corresponding to these values.

9. Article 4 stipulates that ceramic articles must be appropriately marked. If these products are not offered for sale to the final consumer, the prescribed labelling or marking may be replaced or supplemented by accompanying commercial literature. This labelling must contain the following information in readily legible and clearly visible characters: the name or trade name and the address or, where appropriate, the registered trade mark of the importer or the person responsible for placing the article on the market. Where appropriate the following should also be marked:

- 'for children'
- 'for cooking'
- 'packaging', in the case of packaging sold empty to the final consumer and having a capacity of up to five litres.

In its notes on Article 4, the Commission states that a marking system must be laid down by which ceramic articles classified in four categories corresponding to different limit values can be identified. The Commission also states that: 'other articles "tableware or kitchenware" or vessels with a capacity of more than 5 litres which can easily be identified by elimination need not carry a distinguishing mark'.

Your committee feels that in the interest of clarity, and to avoid misunderstandings, all four categories should be marked. This means that "tableware" and "kitchenware" should also be marked accordingly. The same applies to packaging and storage containers. It is not clear why a distinction should be made between containers with a capacity of more than 5 litres and less than 5 litres where compulsory labelling is concerned. From a systematic point of view it would be logical to mark all four categories of ceramic articles clearly as such instead of only some of them.

Your committee also considers that all ceramic articles which are not suitable for cooking should be clearly marked 'not for cooking purposes', since the extraction limit for lead and cadmium in cooking appliances is rightly fixed at a particularly low level. If other ceramic articles with a higher extractable quantity of lead and cadmium are mistakenly used for cooking purposes, consumers could risk being poisoned. Your committee therefore asks the Commission to supplement Article 4 by making the warning 'not for cooking purposes' compulsory. This negative marking does not conflict with the general system, since in Article 1 the Commission stipulates a warning, i.e. a negative marking, even for ceramic articles which are not intended to come into contact with food.

10. According to Article 4 (3), Member States may require that, at the time of sale of the ceramic articles to the final consumer, the necessary marking should be expressed in the national languages. If this provision were adopted, it would depend on the individual Member State whether the product was clearly marked in a manner understandable to the consumer. However, the consumer cannot be expected to understand correctly information given in a language other than his own. This could give rise to errors and misunderstandings, from which the consumer might suffer.

This is why your committee has always requested in similar cases¹ that the provision governing labelling in the consumer's language be a mandatory one. It therefore asks for the first sentence of Article 4 (3) to read as follows: 'Member States shall require that at the time of offer and sale to the final consumer in their territories, the labelling or marking specified in this article shall also be expressed in their national language or languages'.

In this case, the demand is all the more justified since according to the second sentence of Article 4 (3), the requirement of labelling in the consumer's national language 'shall apply only to the labels and packaging of ceramic articles'.

This requirement can easily be satisfied by the manufacturer since it necessitates no change in the manufacturing process but only the production of special labels and packaging.

11. Under Article 5, Member States may not prohibit or impede the placing of ceramic articles on the market if these articles satisfy the provisions of the directive governing the permissible extraction limits and the labelling or marking requirements of the products. In its notes on this article, the Commission states: 'This article establishes freedom of movement on the Community market of ceramic articles intended to come into contact with food and which satisfy the requirements of this directive'.

Article 5 seems entirely superfluous. Your committee points out that the sole purpose, after all, of harmonization directives is to ensure the free movement of goods within the Community.

This article is particularly superfluous since Article 2 requires Member States to ensure that ceramic articles are marketed only if they satisfy the requirements of the directive and its annexes. In addition, the outline directive on materials and articles intended to come into contact with

¹Most recently in Mrs Orth's report on materials and articles intended to come into contact with foodstuffs (Doc. 321/74, paragraph 7 of resolution and paragraph 14 of explanatory statement)

foodstuffs (Doc. 226/74) does not contain any provisions similar to those of Article 5 of the present proposal.

Your committee therefore requests the Commission to delete Article 5.

12. Article 6 contains the usual safeguard clause whereby a Member State can temporarily prohibit the marketing of ceramic articles if it considers that they constitute a danger to health. The Member State must inform the Commission and the other Member States immediately of the measures taken, stating the reasons for its decision. Within six weeks of such notification, the Commission must consult the Member States which have made use of the safeguard clause and then, without delay, express its opinion and take the appropriate measures.

Under Article 6 (3) any adaptations to the directive which the Commission considers necessary shall be adopted by either the Commission or the Council in accordance with the committee procedure provided for in Article 8. Until such adaptations enter into force the Member State concerned can maintain the safeguard measures it has taken.

Your committee welcomes this provision since it is in the interests of public health protection in the Community.

13. The purpose of Articles 7 and 8 is to regulate adaptation to technical progress of the provisions of the directive, and to lay down the working procedure of the committee responsible for the adaptation to technical progress of the directive on the elimination of technical barriers to trade.

Your committee will forego the usual amendments to the provisions concerning the procedure of the Committees on Implementing Provisions; its views are synonymous with those of the European Parliament concerning the institutional aspect of this problem. However, this does not mean that your committee is retracting its demand. It will shortly hold a comprehensive debate in order to establish its policy in this matter so that a satisfactory solution may finally be found to the long-standing problem of the committee procedure. Such a debate is all the more necessary since the Council's answer to your committee's written question No. 0-59/74 concerning the working procedure of the Committees on Implementing Provisions (Doc. 417/74), given on 15 January 1975¹, was most unsatisfactory.

14. Under Article 9 (1), Member States shall adopt and publish before 1 January 1977 the provisions needed to comply with the directive and shall inform the Commission thereof without delay. They shall implement these

¹ See 'Debates', Annex to Official Journal of the European Communities No.185, pp. 109 ff (January 1975)

provisions as from 1 July 1977.

Your committee objects to the fact that provisions aimed at protecting public health in the Community are not to take effect until mid-1977, i.e. more than 2 years from now. Member States are given almost two years' time in which to translate the provisions of the directive into national law. It would be perfectly realistic and at the same time sufficiently considerate of the manufacturers' interests (possible need to adapt production processes) if the Member States were to publish the necessary legal provisions by 1 January 1976 and implement them by 1 July 1976. Your committee requests the Commission to amend Article 9 (1) accordingly.

15. Article 9 (2) requires Member States to inform the Commission, in time to enable it to express its views, of any proposed provisions which they intend to adopt in the field covered by the directive.

Your committee approves this provision which is customary and justified in harmonization directives.

16. Article 10 contains the usual final provision addressing the directive to the Member States.

17. Annex I lays down the general principles governing the manufacture of ceramic articles. The last paragraph of this annex lists, by way of example, a number of ceramic products (pottery, earthenware, porcelain, etc.).

18. Annex II lays down the testing procedure to be followed by the laboratories and the conditions to be observed when assessing the extractable quantities of lead and cadmium. Specifically, this annex contains provisions regarding

- the nature and preparation of the simulating solvent (test solution),
- the preparation of the samples,
- filling with the test solution,
- the definition of flatware and the determination of the surface area,
- the lighting conditions for testing lead extraction and lead and/or cadmium extraction,
- the test temperature,
- the duration of the test.

Your committee has no objections to these testing conditions: it relies in this connection on the expertise of the specialists consulted by the Commission. It assumes that in formulating these conditions, the greatest possible account was taken of the consumers' health.

19. Annex III sets out the general principles of the method of analysis using atomic absorption with the aid of a flame spectrophotometer. This method of analysis serves to determine the quantity of the lead and/or cadmium extracted by the solvent during a test.

Here too, your committee is relying on the competence of the experts.

III. Opinions of the other committees consulted

(a) Legal Affairs Committee

20. The Legal Affairs Committee delivered its opinion in the form of a letter sent by its chairman, Mr SCHUIJT, on 4 March 1975 to Mr DELLA BRIOTTA, chairman of your committee.

This opinion is attached to the report.

21. The Legal Affairs Committee wonders whether Article 2 (2) of the proposal is not superfluous.

This provision stipulates that ceramic articles which have the appearance of the articles listed in Article 1 but are not ceramic articles within the meaning of this directive may not be marketed unless they bear appropriate markings. It feels there is little point in adopting provisions for products which do not fall within the scope of the directive and, since they are not intended to come into contact with foodstuffs, do not constitute a danger to health.

Your committee does not agree. The provision considered superfluous by the Legal Affairs Committee is very much in the interest of health protection since the compulsory marking will warn consumers against using these articles as food containers. This provision will help to protect the consumer against what might be a serious mistake and should therefore, in the opinion of your committee, be retained.

22. In Article 4 (3), the Legal Affairs Committee feels that 'their national language' should be replaced by 'their national languages', since two Member States, Belgium and Ireland, have more than one official language.

Your committee considers this an improvement and requests the Commission to amend Article 4 (3) of its proposal accordingly.

23. Finally, the Legal Affairs Committee points out that Articles 7 and 8 should lay down the working procedure not of the 'committee for adaptation to technical progress of directives on the elimination of technical barriers to trade in ceramic articles', but of the existing Standing Committee on Foodstuffs. As indicated in the Commission's notes on Articles 7 and 8 and

in the first recital of the directive, this directive is to implement the directive proposed by the Commission in July 1974 but not yet adopted by the Council concerning materials and articles intended to come into contact with foodstuffs (Doc. 226/74).

That outline directive provides for the intervention of the Standing Committee on Foodstuffs. The Commission would therefore have been well advised to make provision for intervention by the Standing Committee on Foodstuffs in this implementing directive too.

Your committee fully endorses this point of view. However, it considers the point so obvious that it is confident the necessary adaptation and coordination will be effected at the latest on adoption of the outline directive by the Council, and will therefore not move a formal amendment to Articles 7 and 8.

(b) Committee on Economic and Monetary Affairs

24. The attached opinion of the Committee on Economic and Monetary Affairs also took the form of a letter addressed by its chairman, Mr LANGE, on 28 February 1975, to the chairman of your committee.

25. The Committee on Economic and Monetary Affairs points out that the proposal for a directive constitutes a further step towards the elimination of technical barriers to trade, designed to ensure the free movement of goods within the Common Market. It joins your committee in approving the system of total harmonization chosen by the Commission, a system which is essential in the case of directives designed to protect public health and the environment.

Letter from Mr SCHUIJT, chairman of the Legal Affairs Committee, to
Mr DELLA BRIOTTA, chairman of the Committee on Public Health and the
Environment

Luxembourg, 5 March 1975

Dear Mr Chairman,

At its meeting of 5 March 1975, the Legal Affairs Committee considered and unanimously approved¹ the proposals 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 ceramic articles intended to come into contact with food (limitation of extractable quantities of lead and cadmium) (Doc. 458/74); and
- for a Directive on the approximation of the laws, regulations and administrative provisions of Member States relating to the classification, packaging and labelling of pesticides (Doc. 460/74)

which had been forwarded to the committee for its opinion by the President of the European Parliament with the letters from the Secretary-General of the European Parliament dated 5 February 1975.

Although the Legal Affairs Committee considers that these proposals present no essential problems of a legal nature, it nevertheless feels that attention should be drawn to the following points concerning the first proposal for a directive:

- (a) Article 2(2) might be thought superfluous. This Article lays down provisions on the marketing of products which have the appearance of the articles listed in Article 1, but which are nevertheless outside the scope of the directive. In other words, these are products which, according to Article 1, may not be 'employed for these purposes' (the purposes of the articles listed). There seems little point in laying down provisions in this connection for such products which, at least in the area covered by the directive, do not present any health risk.

¹ Present: Mr SCHUIJT, chairman; Mr JOZEAU-MARIGNE and Mr BERMANI, vice-chairmen; Mr BAYERL, Mr BRUGGER, Mr D'ANGELOSANTE, Mr GUERTSEN, Mr RIVIEREZ, Mr SANTER and Mr VERNASCHI.

(b) It would be better in Article 4(3) to speak of '... language or languages ...' because two Community countries, Belgium and Ireland, have more than one official language. There is also the question - although this is really the concern of the committee responsible - of whether it would not be advantageous to the consumer if it were compulsory for the labelling to be in the language of the country in which the product is used. The same applies to Article 7(4) of the second proposal for a directive.

(c) According to the Commission's observations on Articles 7 and 8, the Committee for Adaptation to Technical Progress in the ceramic products sector referred to in these provisions should be replaced by the Standing Committee on Foodstuffs, set up on 13 May 1969, when the proposed outline directive on the approximation of Member States' legislation materials and articles intended to come into contact with foodstuffs (Doc. 226/74) enters into force. The present proposal for a directive, as judicated in the first recital of the preamble, is in fact a regulation implementing the outline directive referred to above, which has not yet been adopted, which refers in Article 9 to the Committee on Foodstuffs and on which the European Parliament delivered its opinion on 11 November 1974.¹

It may be asked why the Commission did not already mention the Standing Committee on Foodstuffs in Articles 7 and 8 as it is reasonable to assume that the present proposal for a directive is not to enter into force before the proposed outline directive referred to above is adopted by the Council.

If, however, the present directive is adopted before the outline directive, it might well be desirable to stipulate expressly in this draft that the Standing Committee on Foodstuffs will replace the Committee for Adaptation to Technical Progress in the ceramic products sector as soon as the outline directive enters into force.

.....

(sgd.) Dr W. J. SCHUIJT

¹ OJ No. C 135, 9 December 1974; ORTH Report (Doc. 321/74)

Letter from Mr MITTERDORFER, draftsman of the opinion, on behalf of the Committee on Economic and Monetary Affairs, to Mr DELLA BRIOTTA, chairman of the Committee on Public Health and the Environment.

Brussels, 28 February 1975

Dear Mr Della Briotta,

On 5 February 1975 the Committee on Economic and Monetary Affairs was asked by Parliament to draw up an opinion for your committee on proposals for directives Docs. 460/74 and 458/74. It considered these documents on 27 February and instructed me to forward to you the following observations by way of an opinion:

Doc. 460/74:

This proposal for a directive represents a further step towards the removal of technical obstacles to trade necessary for the free movement of goods within the Common Market. The Committee on Economic and Monetary Affairs stresses that the Commission has chosen the method of complete harmonization for the protection of health and the environment.

Doc. 458/74:

This proposal for a directive also represents a contribution towards the free movement of goods. Nonetheless, the committee would point out that a somewhat formalistic approach has been adopted on labelling and that it might be wise to reconcile a legitimate concern with consumer safety with the practical necessities of the market.

The Committee on Economic and Monetary Affairs has maintained for years that complete harmonization of national provisions provides the best guarantee of consumer protection through the removal of technical obstacles to trade.

Please consider these remarks as the unanimously approved opinions of the Committee on Economic and Monetary Affairs to your committee¹ on the Commission's proposals for directives on the approximation of the laws, regulations and administrative provisions of Member States relating to the classification, packing and labelling of pesticides (Doc. 460/74) and to ceramic articles intended to come into contact with food (limitation of extractable quantities of lead and cadmium) (Doc. 458/74).

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(sgd) Karl MITTERDORFER

¹The following members were present: Mr Lange, chairman, Mr Notenboom and Sir Brandon Rhys Williams, vice-chairmen, Mr Mitterdorfer, draftsman, Mr Artzinger, Mr Bersani, Mr Burgbacher, Mr Carpentier, Mr Normanton, Mr Petersen (deputizing for Mr Achenbach), Mr Radoux (deputizing for Mr Delmotte), Mr Scholten and Mr Starke.