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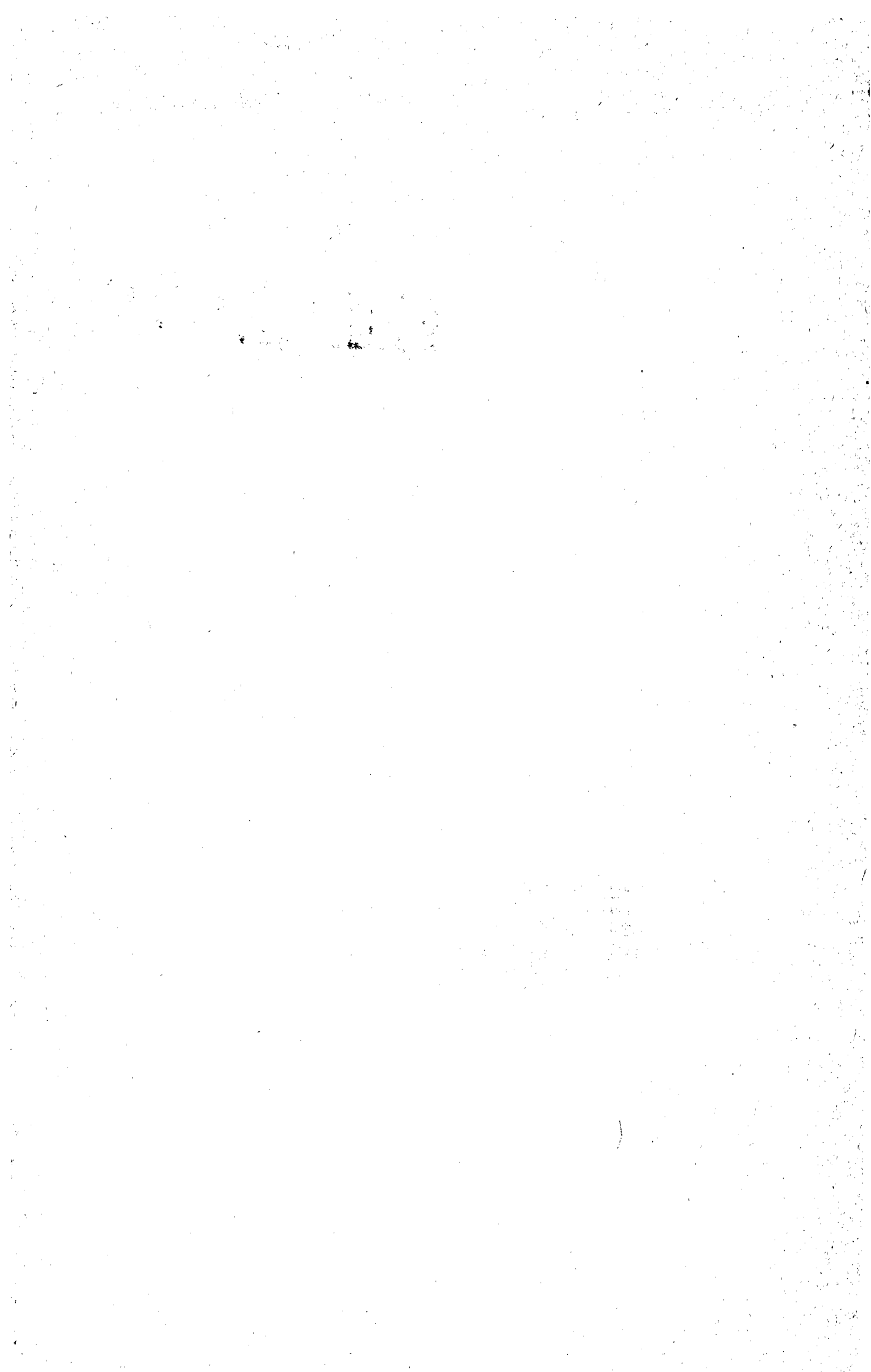
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Proposal for a
COUNCIL DIRECTIVE

amending Directive 73/173/EEC on the approximation
of Member States' laws, regulations and administrative
provisions relating to the classification, packaging and
labelling of dangerous preparations (solvents)

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EXPLANATORY MEMORANDUM

1. GENERAL REMARKS

On 4 June 1973 the Council adopted a directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (solvents)(1). In this context, a solvent is understood to be a liquid volatile substance capable of absorbing other substances, with which it merely forms a liquid phase without any chemical reaction.

A number of amendments now have to be made to the text of the directive in order to adapt it to the state of the art in science and technology and bring it into line with the basic directive on dangerous substances of 27 June 1967 (2), as last amended by the directive of 14 July 1976 (3).

It has also been found that the scope of the "solvents" directive needs to be extended, since it is very limited and there are large numbers of dangerous substances which are not covered by the directive. Furthermore, that directive needs to be clearly distinguished from other existing directives relating to products which likewise contain solvents.

It is also necessary to provide greater protection for the public and especially for persons who frequently come into contact with dangerous solvents in the course of their work or their hobby by compelling manufacturers to notify the composition of toxic solvent mixtures to the poisons information centres, thereby ensuring that prompt and effective aid can be rendered in the event of poisoning accidents.

The necessary amendments to the Annex to the Directive (List of dangerous solvents) will be effected under the procedure laid down in Article 10 of the directive, i.e. through the Committee on Adaptation to Technical Progress.

Dangerous preparations which do not come within the scope of this directive will be covered by another directive now in the course of preparation. This should close the last gap in the labelling of dangerous substances and preparations.

(1) O.J. No L 189, 11.7.1973, p. 7

(2) O.J. No 196, 16.8.1967, p. 1

(3) O.J. No L 360, 30.12.1976, p. 1

II. REMARKS ON THE INDIVIDUAL ARTICLES

Article 2

Paragraph 1 extends the scope of the directive to cover mixtures of solvents listed in the directive with other non-hazardous substances. Hitherto, the directive has covered only mixtures of solvents with other solvents; hence the directive could easily be circumvented by adding other non-hazardous substances to mixtures of this kind.

Paragraphs 2 and 3 draw a clear distinction from existing directives relating to products that also contain solvents (e.g. cosmetic articles).

Moreover, the text is adapted to that of the "dangerous substances" directive of 27 June 1967.

Article 3

This article gives a precise definition of the impurities and additives that do not have to be taken into account. It provides for the deletion of the final column of the table, which is superfluous and has merely led to confusion.

It stipulates that corrosive, irritant, easily flammable and flammable solvents shall likewise come within the scope of the directive and lays down exact nomenclatures for these danger categories.

Article 4

This refers to the "dangerous substances" directive of 27 June 1967 with a view to harmonizing the provisions on packaging and closures.

Article 5

This sets out the requirements as regards the information appearing on the label and provides for the assignment of the various danger symbols.

Articles 6 and 7

These are intended to ensure that the particulars stated on the label and certain exceptions in the matter of labelling are in accord with the provisions of the "dangerous substances" directive.

Article 8

This requires the manufacturer to notify the poisons information centre of the composition of toxic solvent mixtures and requires the member state to notify the lists of the poisons information centres to the Commission and the other Member States.

III. PREPARATION OF THE PROPOSAL FOR A DIRECTIVE

The proposal for a directive was drafted in consultation with a working party composed of experts in the fields of public health, hygiene, industrial safety, industry and trade, and in close cooperation with the relevant professional organizations.

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

As the implementation of the provisions of this proposal for a directive involve the amendment of legislation in the Member States, the Opinion of both these bodies is required pursuant to the second paragraph of Article 100 of the EEC Treaty.

Proposal for a Council Directive

amending Directive 73/173/EEC
on the approximation of Member States' laws, regulations
and administrative provisions relating to the classification,
packaging and labelling of dangerous preparations (solvents)

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, for the better protection of the general public and in particular
of persons who come into contact with dangerous solvent preparations in the
course of their work or in the pursuit of a hobby, it is necessary to extend
the scope of the existing Directive of 4 June 1973 (73/173/EEC) on the
approximation of Member States' laws, regulations and administrative
provisions relating to the classification, packaging and labelling of
dangerous preparations (solvents) (1);

Whereas the Directive will henceforth apply not only to mixtures of two or
more solvents but also to mixtures of solvents with other non-dangerous
substances when they are intended to be used as solvents; whereas corrosive,
irritant and easily flammable solvents are now likewise brought within the
scope of the Directive;

Whereas it is desirable that the scope of the Directive be more clearly
defined with respect to other Directives relating to products which likewise
contain solvents;

(1) O.J. No L 189, 11.7.1973, p. 7

Whereas certain provisions of the Directive have also to be brought into line with Council Directive 67/548/EEC of 27 June 1967 on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (1), as last amended by Directive 76/907/EEC (2), notably in respect of the information appearing on the label, the dimensions of the label and the assignment of the various danger symbols;

Whereas it is furthermore necessary to impose upon manufacturers the obligation to notify the poisons information centres of the composition of toxic solvent mixtures in order that prompt and effective aid may be rendered in the event of accidents;

Whereas the necessary amendment and amplification of the Annex to the Council Directive 73/173/EEC of 4 June 1973 (solvents) will be effected under the procedure provided for in Article 10 thereof,

HAS ADOPTED THIS DIRECTIVE :

(1) O.J. No 196 of 16.8.1967, p. 1

(2) O.J. No L 360 of 30.12.1976, p. 1

Article 1

Council Directive 73/173/EEC of 4 June 1973 is amended in accordance with the following Articles.

Article 2

1. Article 1 (1), (2) and (3) a) shall be replaced by the following:

"(1) This Directive concerns:

- the classification,
- the packaging, and
- the labelling

of the following preparations which are placed on the market in the Member States of the Community and are regarded as dangerous within the meaning of Article 2 of this Directive:

- (a) Preparations intended for use as solvents and containing only the constituents listed in the Annex hereto, including those which contain impurities in quantities exceeding the limits laid down in Article 2 (5);
- (b) preparations intended for use as solvents and containing, in addition to the constituents listed in the Annex hereto, other non-dangerous substances within the meaning of Article 2 (2) of Council Directive 67/548/EEC of 27 June 1967 (hereinafter referred to as "the Directive of 27 June 1967").

(2) This Directive shall not apply to cosmetic products if they come under Council Directive 76/768/EEC of 27 July 1976 (1).

(3) Furthermore, this Directive shall not apply to the following: medicines, narcotics, radioactive preparations, fuels, foodstuffs, plant health products and pesticides, insofar as their classification, packaging and labelling are governed by an appropriate Directive.

(1) O.J. No L 262 of 27.9.1976, p. 169

2. Article 1 (3) shall be supplemented by a new subparagraph f) worded as follows:

"(f) Articles 4 to 6 of this Directive shall not apply to containers for gaseous preparations which are compressed, liquefied or dissolved under pressure, with the exception of aerosols, which are governed by Directive 75/324/EEC." (1)

Article 3

1. The first sentence of Article 2 (1) shall be replaced by the following text:

"(1) Dangerous substances within the meaning of the Directive of 27 June 1967 which are used as solvents shall be divided into classes and sub-classes in accordance with the Annex hereto."

2. The last column of the table in Article 2 (1) (Concentration Limit to qualify for exemption E%) shall be deleted.

3. Article 2 (5) shall be replaced by the following text:

● "Substances listed in the Annex hereto which are present, whether as impurities or as additives, in the preparations governed by this Directive shall not be taken into account if their concentrations do not exceed the following values:

- 0.2% in the case of Class I substances;
- 1% in the case of Class II substances or substances classified as corrosive;
- 2% in the case of substances classified as irritant ."

4. The following paragraphs shall be inserted after Article 2 (5):

"(6) Preparations shall be considered corrosive if they contain one or more of the substances classified as corrosive in the Annex hereto in concentrations exceeding the limit specified therein.

(1) O.J. No L 147 of 9.6.1975, p. 40

(7) Preparations shall be considered irritant if they contain one or more of the substances classified as irritant or corrosive in the Annex hereto in an individual concentration exceeding the limit specified therein in a total concentration exceeding 25%.

If there are facts to justify the assumption that a preparation containing at least two irritant substances is corrosive, or if such has been found to be the case in practice, tests shall be carried out to determine the category to which the preparation belongs in accordance with the procedure described in Annex VIII of the Directive of 27 June 1967 (1).

The preparation shall be classified according to the results obtained.

(8) Preparations shall be considered easily flammable if they are in liquid form and their flash point, as determined by the method laid down in Annex VII of the Directive of 27 June 1967, is below 21°C.

(9) Preparations shall be considered flammable if they are in liquid form and their flash point, as determined by the method referred to above, is between 21 and 55°C.

(10) Preparations in the form of aerosols shall be subject to the flammability criteria set out in item 1.8 of the Annex to Directive 75/324/EEC.

(11) For the purpose of this Directive "market" means "common market".

Article 4

Article 4 shall be replaced by the following:

"Member States shall take all necessary measures to ensure that dangerous preparations (solvents) cannot be placed on the market unless their packagings and closures satisfy the requirements of Article 5 of the Directive of 27 June 1967."

(1) The proposal for a sixth amendment of the Directive of 27 June 1967 transmitted to the Council on 20 September 1976 contains Annex VIII.

Article 5

1. Article 5 (1) to (4) shall be replaced by the following:

"(1) Member States shall take all necessary measures to ensure that preparations classified as dangerous in accordance with Article 2 cannot be placed on the market unless the labelling on the package fulfils the following conditions.

(2) The following information shall be clearly and indelibly inscribed on the package of any preparation classified as dangerous in accordance with Article 2:

(a) the trade name or designation of the preparation;

(b) - the chemical name(s) of the toxic ingredient(s) and the percentage contained;

- the chemical name(s) of the harmful ingredient(s) if the concentration thereof exceeds the following values:

in the case of class II/a substances	3% by weight
in the case of class II/b substances	6% by weight
in the case of class II/c substances	10% by weight
in the case of class II/d substances	20% by weight;

- the chemical name of the corrosive ingredient(s) if the concentration thereof exceeds the lowest values mentioned in the Annex;

- the inscription "irritant solvents" if the preparation contains irritant ingredients in a concentration exceeding the value specified in Article 2 (7) and if, furthermore, it contains no toxic, harmful and/or corrosive ingredients.

The chemical name shall be the designation listed in Annex I to the Directive of 27 June 1967.

The chemical name(s) of the ingredient(s) need not be stated if the preparation is classified merely as easily flammable or flammable.

- (c) the name and address of the manufacturer or of any other person placing the preparation on the market;
- (d) symbols where specified in this Directive, and indication of danger in accordance with Article 6(2) (c) of the Directive of 27 June 1967, read in conjunction with Annex V thereto, and, in the case of aerosol preparations, in accordance with item 1.8 of the Annex to Directive 75/324/EEC where flammability hazards are concerned;
- (e) one or more standard inscriptions indicating the nature of any special risks involved in the handling of the preparations. In the case of harmful, irritant or easily flammable preparations, such special risks need not be indicated if the content of the package does not exceed 125 ml;
- (f) in the case of toxic preparations, the notice: "The full composition of this preparation has been notified to the poisons information centre(s) under the following reference:" X)

(3) The notice concerning special risks shall be furnished by the manufacturer or any other person marketing the preparation, according to the importance of the principal hazards.

() The notice shall conform to the wording in Annex III to the Directive of 27 June 1967.

No more than four standard inscriptions need be furnished. If the preparation falls within several danger categories, the notice shall cover all the principal hazards associated with the preparation.

(4) The packaging shall be accompanied by safety advice relating to the use of the substance where it is materially impossible for this to be given on the label or package itself. Such advice shall be selected by the

X) The full address and telephone number of the centre(s) must be given.

manufacturer or any other person placing the preparation on the market from among the items set out in Annex IV to the Directive of 27 June 1967."

2. The following paragraphs shall be added to Article 5:

(6) When more than one danger symbol is assigned to a preparation, the following shall apply:

- where the symbol T has to be affixed, the symbol C is generally not required and the symbol X is never required;
- where the symbol C has to be affixed, the symbol X is not required.

(7) If a preparation is classified as both harmful and irritant, it shall be labelled harmful and attention shall be drawn to its harmful and irritant characteristics by appropriate warnings in accordance with Annex III to the Directive of 27 June 1967."

Article 6

Article 6 shall be replaced by the following:

"Article 7 of the Directive of 27 June 1967 shall be applicable in respect of the labelling details."

Article 7

Article 7 shall be replaced by the following:

"Article 8 of the Directive of 27 June 1967 shall be applicable in respect of derogations from the labelling requirements."

Article 8

The following paragraphs shall be added to Article 8:

"(2) Member States shall take all necessary measures to ensure that the manufacturer or any other person marketing a toxic preparation notifies its composition to the poisons information centres designated by the competent authorities.

(3) Each Member State shall notify to the other Member States and to the Commission the following:

- a list of the Poisons Information Centres designated to receive the information referred to in the second paragraph;
- any subsequent change in such list.

These lists shall be published for information purposes in the Official Journal of the European Communities."

Article 9

Article 10 shall be replaced by the following:

"Annexes to this Directive shall be adopted in accordance with Article 8(c) of the Council Directive of 27 June 1967."

Article 10

(1) Member States shall adopt and publish within 12 months from the notification of the first Directive based on Article 10 of this Directive the laws, regulations and administrative provisions needed to comply with this Directive.

They shall apply these provisions within 18 months from the notification of the first Directive based on Article 10 of this Directive.

(2) On notification of this Directive, Member States shall inform the Commission, in time to enable it to put forward its comments, of all draft laws, regulations or administrative provisions which they intend to adopt in the field covered by the Directive.

Article 11

This Directive is addressed to the Member States.