



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 October 2012

14818/12

**Interinstitutional File:
2012/0007 (COD)**

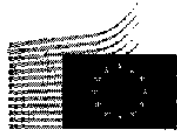
**MI 619
CHIMIE 76
ENV 769
COMPET 610
ENT 249
CODEC 2369**

NOTE

from: General Secretariat of the Council
to: Working Party on Technical Harmonisation

No. Cion prop.: 5831/12 MI 56 CHIMIE 6 ENV 54 COMPET 40 ENT 21

Subject: Proposal for a Directive of the European Parliament and of the Council
on the classification, packaging and labelling of dangerous preparations
- Opinion of the Consultative Working Party of Legal Services



Brussels, 08 OCT. 2012

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on the classification, packaging and labelling of dangerous preparations
COM(2012) 8 final of 26.1.2012 - 2012/0007 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 15 March, 24 May and 5 July 2012 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

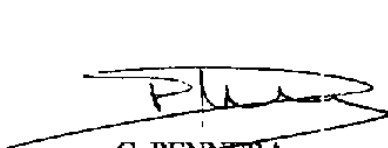
At those meetings¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations resulted in the Consultative Working Party's establishing by common accord that, as regards the explanatory memorandum accompanying the proposal, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have stated the reasons for each proposed substantive amendment, as is provided for under point 6(a)(ii) of that agreement, and should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii).

As far as Articles 10(4), 12(4) and 19 of the draft recast act are concerned, it was discussed on whether or not those texts should have been entirely identified with the grey-shaded type generally used for marking substantive changes. On the one hand, the Legal Services of the European Parliament and of the Commission considered that the presentation used for identifying the replacements of certain wordings currently

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

contained in Articles 10, point 3, 12(4) and 20 of Directive 1999/45/EC with new wordings, taken from standard texts agreed between the three institutions, sufficiently describes the substantive amendments proposed for those existing provisions. On the other hand, the Legal Service of the Council considered that the change in procedure cannot be separated from the substantive issues to which that procedure relates and that the entire texts of Articles 10(4), 12(4) and 19 should therefore have been identified by using that grey-shaded type. Nevertheless, the three legal services shared the view that the draft texts submitted by the Commission for Articles 10(4), 12(4) and 19 should be understood as meaning that the Commission had intended to propose only that the references to the regulatory procedure with scrutiny currently contained in Articles 10, point 3, 12(4) and 20 of Directive 1999/45/EC be replaced with delegations to the Commission of the power to adopt acts in accordance with Article 290 TFEU. In that respect, it was also the common understanding of the three legal services that, as part of the recast exercise, the legislator could lay down a delegation of powers in relation to the said provisions, or alternatively opt, with regard to one or more of those provisions, for not delegating its powers to the Commission (therefore rendering the ordinary legislative procedure applicable to the said amendments) or for conferring implementing powers on that institution or on the Council in accordance with Article 291 TFEU and Regulation (EU) No 182/2011.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.



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