COUNCIL DIRECTIVE

of 30 May 1978

on the coordination of laws, regulations and administrative provisions relating to Community co-insurance

(78/473/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2) and 66 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the effective pursuit of Community co-insurance business should be facilitated by a minimum of coordination in order to prevent distortion of competition and inequality of treatment, without affecting the freedom existing in several Member States ;

Whereas such coordination covers only those co-insurance operations which are economically the most important, i.e. those which by reason of their nature or their size are liable to be covered by international co-insurance ;

Whereas this Directive thus constitutes a first step towards the coordination of all operations which may be carried out by virtue of the freedom to provide services ; whereas this coordination, in fact, is the object of the proposal for a second Council Directive on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services, which the Commission forwarded to the Council on 30 December 1975 (3) ;

Whereas the leading insurer is better placed than the other co-insurers to assess claims and to fix the minimum amount of reserves for outstanding claims ;

Whereas work is in progress on the winding-up of insurance undertakings ; whereas provision must be made at this stage to ensure that, in the event of winding-up, beneficiaries under Community co-insurance contracts enjoy equality of treatment with beneficiaries in respect of the other insurance business, irrespective of the nationality of such persons ;

Whereas special cooperation should be provided for in the Community co-insurance field both between the competent supervisory authorities of the Member States and between those authorities and the Commission ; whereas any practices which might indicate a misuse of the purpose of the Directive are to be examined in the course of such cooperation,

HAS ADOPTED THIS DIRECTIVE :

TITLE I

General provisions

Article 1

1. This Directive shall apply to Community co-insurance operations referred to in Article 2 which relate to risks classified under point A. 4, 5, 6, 7, 8, 9, 11, 12, 13 and 16 of the Annex to the First Council Directive of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (4), hereinafter called the 'first Coordination Directive'.

It shall not apply, however, to Community co-insurance operations covering risks classified under point A. 13 which concern damage arising from nuclear sources or from medicinal products. The exclusion of insurance against damage arising from medicinal products shall be examined by the Council within five years of the notification of this Directive.

2. This Directive shall apply to risks referred to in the first subparagraph of paragraph 1 which by reason of their nature or size call for the participation of several insured for their coverage.

Any difficulties which may arise in implementing this principle shall be examined pursuant to Article 8.

(1) OJ No C 60, 13. 3. 1975, p. 16.
(2) OJ No C 47, 27. 2. 1975, p. 40.
(3) OJ No C 32, 12. 2. 1976, p. 2.
(4) OJ No L 228, 16. 8. 1973, p. 3.