

COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(81) 573 final

Brussels, 19 October 1981

Proposal for a
COUNCIL DIRECTIVE

amending for the seventh time Directive 76/769/EEC on the
approximation of the laws, regulations and administrative
provisions of the Member States relating to restrictions
on the marketing and use of certain dangerous substance
and preparations

(submitted to the Council by the Commission)

COM(81) 573 final

EXPLANATORY MEMORANDUM

I. GENERAL

1. This proposal for a directive provides for additions to the Annex to Directive 76/769/EEC¹ relating to restrictions on the marketing and use of certain dangerous substances and preparations. Current scientific knowledge, indicates that the use of five chemical substances should be prohibited in the manufacture of specific products, since these substances can be regarded as a health risk.
2. The two products in question are fire-retardant and their use is prohibited in textiles in the Federal Republic of Germany. The first TEPA, gives a positive reaction in several mutagenesis tests and reveals a substantial degree of cutaneous absorption, the second, the PBBs, are persistent and similar in behaviour to the PCBs which are already largely prohibited.
3. The presence of 3,3'-dimethoxybenzidine has been demonstrated in sneezing powder. This product has been prohibited in France and Canada for use in the manufacture of sneezing powder because of its structural similarity with benzidine, a known carcinogen, even though its mutagenic and carcinogenic properties could not be formally established. Children, who are the main users of these novelty and joke products, and who, moreover, are more sensitive as a group than adults to toxic substances should not be exposed to this risk.
4. Ammonium polysulphides are used in stink bombs. They release noxious vapours which have a corrosive effect. They may cause serious injury, particularly to the eyes. Relatively slight quantities may cause inflammation of the skin or the eyes. The United Kingdom has already prohibited the marketing of re-usable stink bombs.

¹ OJ No L 262, 27.9.1976, p. 201

5. It has also prohibited tear-gas capsules containing methylbromoacetate, which are sold as novelty or joke toys, since they can have a harmful effect on the respiratory system and the eyes.
6. The Scientific Advisory Committee on the Toxicity and Ecotoxicity of Chemical Compounds (CSTE) was clearly in favour of the restrictions set out in the proposal for a directive when consulted by the Commission.
7. In addition to the protection of human life and health, this proposal for a directive is also concerned with the efficient operation of the Common Market. Since the adoption of different unilateral measures limiting the use of certain chemicals may create distortions in the Community market and directly affect its operation, a Community solution should be found involving the approximation of the relevant national legislation in this field.

Lastly, the proposal for a directive seeks to induce manufacturers to replace the dangerous substances used in their products by chemicals posing less of a health risk.

II. COMMENTS ON THE ARTICLES

Article 1

This Article provides for the addition of five chemical products to the Annex to Directive 76/769/EEC. Use of these products is restricted because of the health risk which they represent.

Article 2 and 3

These Articles appear in all directives.

III. PREPARATION OF THE DRAFT DIRECTIVE

The proposal for a directive was drawn up in response to notification from two Member States after consultation of working party consisting of experts in the fields of public health, hygiene, industrial safety, industry and commerce and consultation with the CSTE and the industrial and professional organisations concerned.

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

Since implementation of provisions set out in the proposal for a directive would entail amendments to existing legislation in the Member States, the opinion of these two bodies is indispensable and should be obtained in accordance with the second paragraph of Article 100 of the EEC Treaty.

PROPOSAL FOR A COUNCIL DIRECTIVE

amending for the seventh time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing/^{and use} of certain dangerous substances and preparations

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,
opinion of the

Having regard to the/Economic and Social Committee,

Whereas the use of tri-(2,3-dibromopropyl)-phosphate to fireproof textile articles was prohibited by Council Directive 79/663/EEC¹ because of the health risks it involves and whereas subsequent examinations have shown that two other fire-retardant products, tris-(aziridinyl)-phosphin oxide (TEPA) and polybrominated biphenyls (PBB), are harmful to health and, consequently, should not be employed in textile articles which come into contact with the skin;

Whereas 3,3'-dimethoxybenzidine is used in the manufacture of sneezing powder and whereas, even / ^{though} the information concerning the mutagenic and carcinogenic properties of this substance is not conclusive, the affinity of this substance to benzidine, which has a definitely established carcinogenic effect on man, suggests that great caution should be exercised in respect of its potential risks to human health; whereas it is clear that sneezing powder is mainly used by children who, in principle, represent a group which is sensitive to toxic chemicals and who should, consequently, receive special protection against health hazards; whereas, therefore, the use of this substance should be prohibited in sneezing powder;

¹ OJ No L 197, 3.8.1979, p. 37

Whereas ammonium polysulphides have a corrosive effect and may cause serious, lasting damage, particularly to the eyes; whereas these compounds, which are sold in particular to children as novelties or jokes in containers that can be re-used, are especially dangerous and whereas their use should, consequently, be restricted;

Whereas methylbromoacetate is used as tear gas; whereas it has an irritant effect upon the respiratory system and the eyes; whereas, in strong concentrations, it produces a corrosive effect and can cause irreversible damage to the eyes; whereas it should not be used by children and its employment as a novelty or joke should, therefore, be prohibited;

Whereas the restrictions already introduced by some Member States in respect of the abovementioned substances/affect^{directly} the establishment or functioning of the Common Market and whereas it is therefore necessary to harmonize existing legislation in this field in the Member States and to amend accordingly the Annex to Council Directive 76/769/EEC¹,

HAS ADOPTED THIS DIRECTIVE

Article 1

The following items are added to the Annex to Directive 76/769/EEC:

- | | | |
|---|---|--------------------------------|
| "8. Tris-(aziridinyl)-phosphin oxide (TEPA) |) | may not be used in textile |
| 9. Polybrominated biphenyls (PBB) |) | articles intended to come into |
| | | contact with the skin |
| 10. 3,3'-dimethoxybenzidine | | may not be used in |
| CAS No 119-90-4 | | sneezing powder |
| 11. Ammonium polysulphide | | may not be used in containers |
| | | which may be employed several |
| | | times as novelties or jokes |
| 12. Methylbromoacetate | | may not be used in novel- |
| CAS No 96-32-2 | | ties, jokes or hoaxes" |

¹ OJ No L 262, 27.9.1976, p. 201

Article 2

Member States shall bring into force the provisions necessary to comply with this Directive before 1 July 1982. They shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.