

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 792 final

Brussels, 11 January 1980

Proposal for a

COUNCIL DIRECTIVE

amending for the fourth time Council 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

(submitted to the Council by the Commission)

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Background information

I. General

1. Difficulties have been encountered in the application of Council Directive 76/769/EEC of 27 July 1976 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 (1). It has been established that polychlorinated terphenyls (PCT) are used in some Member States as thermoplastic tooling compounds. On account of its danger to health, however, such use of PCT is prohibited under Council Directive 76/769/EEC.
2. This tooling compound is used not only in the form of a wax for holding metals and other materials in the precision machining of turbine parts for civil and military aircraft engines, but also in nuclear reactor technology and in the manufacture of high-precision lenses for military and other purposes. It was originally developed to meet the stringent requirements of the American space research programme. All other tooling compounds leave residual impurities which can severely affect the performance of the machined parts. There is as yet no suitable substitute and research in this field has commenced.
3. The material is produced in the USA and is used in a semi-closed cycle, 95 % of the starting material being recovered and re-used. As regards the residual material, Council Directive 76/403/EEC (2) on the disposal of polychlorinated biphenyls and polychlorinated terphenyls, which entered into force on 6 April 1978, lays down that the collection, regeneration and destruction of the material shall be carried out without endangering human health and without harming the environment. In this way man and the environment are to be protected against harm due to the uncontrolled

(1) OJ L 262 of 27.9.1976, p. 201

(2) OJ L 108 of 26.4.1976, p. 41

disposal, dumping or abandonment of such wastes.

4. In view of the need to continue using this material, especially in the manufacture of military equipment, it should be exempted from the existing prohibition on the use of the substances concerned until a suitable substitute has been found. In order to emphasize the search for a harmless substitute, the Proposal for a Directive provides for a temporary exemption of PCT from the said prohibition.
5. The proposed amendment to Directive 76/769/EEC does not prejudice any subsequent thorough review of the six uses of PCB and PCT still permitted under the Directive.

II. COMMENTS ON THE ARTICLES

Article 1

This article amends the Annex to the Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations in that PCT is exempted from the existing prohibition on the use. Thereof to use in the form of a re-usable thermoplastic tooling compound containing not more than 36 % of PCT, for the supporting, holding and stabilizing of parts will be permitted.

Articles 2 and 3

These are common to all Directives.

III. PREPARATION OF THE PROPOSAL FOR A DIRECTIVE

The proposal for a Directive was drawn up at the suggestion of a Member State Government upon the report of a working party composed of experts on public health, hygiene, safety at work, industry and commerce and after consultation with the relevant industrial and professional organizations, which are entirely in agreement with the Proposal.

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

Since implementation of the provisions set out in the Proposal for a Directive involves the amendment of Member States' legislation, the opinion of both bodies is required in accordance with Article 100 (2) of the EEC Treaty.

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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 in some Member States polychlorinated terphenyls are used in the form of a waxy compound for holding metals and other materials in precision machining work, chiefly in the machining of turbine components for civil and military aircraft engines, but also in nuclear reactor technology and in the manufacture of high-precision lenses for military and other purposes;

Whereas Council Directive 76/769/EEC¹ prohibits such use;

Whereas, since such products are of fundamental importance for the operations in which they are used, temporary authorization of their use in special premises approved by the competent authorities appears to be justified; whereas it is therefore necessary to amend the Annex to Directive 76/769/EEC;

Whereas the disposal of polychlorinated terphenyls is regulated by Council Directive 76/403/EEC²,

¹OJ No L 262, 27.9.1976, p. 201

²OJ No L 108, 26.4.1976, p. 41

HAS ADOPTED THIS DIRECTIVE :

Article 1

In the Annex to Directive 76/769/EEC, the following new item shall be added to the right-hand column of section 1:

"7. re-usable thermoplastic tooling compounds containing not more than 34-36% of PCT, for the support, retention and stabilizing of parts in order to facilitate their precision machining and forming, may continue to be used until 31 December 1985 in special premises approved by the competent authorities."

Article 2

Member States shall bring into force the provisions necessary to comply with this Directive within 12 months of its notification. They shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.