

COUNCIL DIRECTIVE

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

(76/769/EEC)

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 ⁽¹⁾,

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

Whereas any rules concerning the placing on the market of dangerous substances and preparations must aim at protecting the public, and particular persons using such substances and preparations;

Whereas they should contribute to the protection of the environment from all substances and preparations which have characteristics of ecotoxicity or which could pollute the environment;

Whereas they should also aim to restore, preserve and improve the quality of human life;

Whereas dangerous substances and preparations are governed by rules in the Member States; whereas these rules differ as to the conditions of their marketing and use; whereas these differences constitute an obstacle to trade and directly affect the establishment and functioning of the common market;

Whereas this obstacle should therefore be removed; whereas this entails approximating the laws governing the matter in the Member States;

Whereas provisions relating to certain dangerous substances and preparations have already been laid down in Community Directives; whereas it is still necessary to establish rules for other products, in particular for those in respect of which international organizations have decided on restrictions such as polychlorinated biphenyls (PCB), a decision restricting the production and use of which was adopted by the Council of the OECD on 13 February 1973; whereas such a measure is necessary to prevent the absorption of PCB by the human body and the resultant danger to human health;

Whereas detailed examinations have shown that polychlorinated terphenyls (PCT) entail risks similar to those presented by PCBs; whereas the marketing and use of such substances should also be restricted;

Whereas it will be necessary, moreover, periodically to review the whole problem with a view to moving gradually towards a complete ban on PCBs and PCTs;

Whereas the use of chloro-1-ethylene (monomer vinyl chloride) as an aerosol propellant involves dangers to human health and the use thereof should be prohibited,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Without prejudice to the application of other relevant Community provisions, this Directive is concerned with restricting the marketing and use in the Member States of the Community, of the dangerous substances and preparations listed in the Annex.

⁽¹⁾ OJ No C 60, 13. 3. 1975, p. 49.

⁽²⁾ OJ No C 16, 23. 1. 1975, p. 25.

2. This Directive shall not apply to:

- (a) the carriage of dangerous substances and preparations by rail, road, inland waterway, sea or air;
- (b) dangerous substances and preparations exported to non-member countries;
- (c) substances and preparations in transit and subject to customs inspection, provided that they undergo no processing.

3. For the purposes of this Directive:

- (a) 'substances' means chemical elements and their compounds as they occur in the natural state or as produced by industry;
- (b) 'preparations' means mixtures or solutions composed of two or more substances.

Article 2

Member States shall take all necessary measures to ensure that the dangerous substances and preparations listed in the Annex may only be placed on the market

or used subject to the conditions specified therein. Such restrictions shall not apply to marketing or use for Research and Development or analysis purposes.

Article 3

1. Member States shall bring into force the provisions necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 27 July 1976.

For the Council

The President

M. van der STOEL

ANNEX

Designation of the substance, of the groups of substances or of the preparation

1. — Polychlorinated biphenyls (PCB), except mono- and dichlorinated biphenyls.
— Polychlorinated terphenyls (PCT).
— Preparations with a PCB or PCT content higher than 0.1% by weight.

Conditions of restriction

May not be used except for the following categories:

1. closed-system electrical equipment: transformers, resistors and inductors;
2. large condensers (≥ 1 kg total weight);
3. small condensers (provided that the PCB has a maximum chlorine content of 43% and does not contain more than 3.5% of penta- and higher chlorinated biphenyls).

Small condensers which do not fulfil the above requirements may still be marketed for one year from the date of entry into force of this Directive. This restriction does not apply to small condensers already in use;

4. heat-transmitting fluids in closed-circuit heat-transfer installations (except in installations for processing foodstuffs, feedingstuffs, pharmaceutical and veterinary products; however, if PCBs are used in the abovementioned installations at the time of notification of this Directive, they may continue to be used until 31 December 1979 at the latest);
5. hydraulic fluids utilized in:
(a) underground mining equipment;
(b) machinery servicing cells for the electrolytic production of aluminium, in use when this Directive is adopted, until 31 December 1979 at the latest;
6. primary and intermediate products for further processing into other products which are not prohibited under this Directive.

2. Chloro-1-ethylene (monomer vinyl chloride)

May not be used as aerosol propellant for any use whatsoever.