



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second paragraph of Article 251 of the EC Treaty

concerning the

common position of the Council on the adoption of a European Parliament and Council Directive amending for the twenty third time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations (substances classified as carcinogens, mutagens or substances toxic to reproduction – c/m/r)

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1. STATE OF PROCEDURE

- The above mentioned proposal [COM(2001) 256 final] was adopted by the Commission on 14th May 2001 and then transmitted to the Council and European Parliament.
- The European Parliament approved the proposal with amendments in the first reading on 5th February 2002.
- The Commission rejected the European Parliament's amendments.
- The Council adopted its Common Position on 3rd June 2002.
- The Economic and Social Committee gave its Opinion on 12th September 2001.

2. OBJECTIVE OF THE DIRECTIVE

The Proposal, which is based on Article 95 of the Treaty, has the following two objectives:

- to preserve the Internal Market by introducing harmonised provisions with regard to the marketing and use of substances classified as carcinogens, mutagens or substances toxic to reproduction (c/m/r);
- to provide a high level of protection of health and the environment by restricting the marketing and use of substances classified as carcinogens, mutagens or substances toxic to reproduction (c/m/r).

3. COMMENTS ON THE COMMON POSITION

3.1. General

The Common position corresponds with the Commission's proposal.

3.2. Fate of the Amendments

The two amendments adopted by the Parliament have been rejected by the Commission.

The Commission cannot accept an extension of the ban on substances classified as carcinogenic, mutagenic or toxic to reproduction of category 1 or 2 and preparations to products containing such substances, placed on the market for use by the general public.

The current restrictions relating to points 29, 30 and 31 of Annex I of Directive 76/769/EEC as well as the Commission's proposal for the twenty third amendment of Directive 76/769/EEC cover substances and preparations. By including both substances and preparations within the scope of the proposal the situations most likely to lead to exposure of consumers to CMR substances are covered. Examples of preparations used by consumers are glues, detergents, household cleaning products, etc.

The approach under the current chemicals regime is to assess substances on a case by case basis with risk management measures being taken where it is established that action should be taken to prevent unacceptable risks. The Commission will continue this practice and if particular risks arising from CMR substances in products are identified, proposals will be made for restrictions on a case by case basis.

To further extend the scope of the Directive to ban CMR substances in products sold to the general public would be an immense undertaking requiring risk assessments for hundreds of substances and possibly thousands of uses.

Launching such a high number of risk assessments would not be feasible and would be inconsistent with Council Regulation (EEC) No 793/93 of 23rd March 1993 on the evaluation and control of the risks of existing substances¹ and with Commission Regulation (EC) No 2364/2000 of 25th October 2000 concerning the fourth list of priority substances as foreseen under Council Regulation (EEC) No 793/93² which establishes a list of priority substances for which risk assessments must be undertaken. The Commission is of the opinion that these priority lists established on the recommendations of Member States must be the basis for undertaking risk assessments as they guarantee that the Community concentrates its limited resources on the most dangerous substances first.

As regards the general issue of reduction of risks from dangerous substances, the Commission would also draw attention to the important changes which will be brought about under the new chemicals strategy and which are of direct relevance in meeting the objectives sought by the proposed amendments.

These changes will involve the registration of some 30 000 substances through a process where industry will have to submit data including a preliminary risk assessment for each of those substances. In addition, the authorisation procedure which will apply in the case of substances of very high concern, including CMRs'

¹ OJ L 85, 5.4.1993, p. 1.

² OJ L 273, 26.10.2000, p. 5.

will involve more stringent requirements. The proposals are at an advanced stage of preparation and will be presented to the Council and the Parliament later this year.

3.3. The Common Position of the Council

The Common Position of the Council corresponds exactly with the Commission's proposal.

4. CONCLUSION

The Commission supports the Common Position because it corresponds exactly with its Proposal.