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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council relating to restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons in extender oils and tyres (twenty-seventh amendment of Council Directive 76/769/EEC)
(COM(2004)0098 – C5-0081/2004 – 2004/0036(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Adamos Adamou

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council relating to restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons in extender oils and tyres (twenty-seventh amendment of Council Directive 76/769/EEC) (COM(2004)0098 – C5-0081/2004 – 2004/0036(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2004)0098)¹,
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0081/2004),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0104/2005),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

RECITAL 4

(4) The emission of BaP and other PAHs into the environment should be reduced as much as possible. In order to provide a high level of protection to human health and the environment and to contribute to the reduction of total annual emissions of PAHs as required in the 1998 Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants, it therefore appears necessary to restrict the placing on the market and the use

(4) The emission of BaP and other PAHs into the environment should be reduced as much as possible. In order to provide a high level of protection to human health and the environment and to contribute to the reduction of total annual emissions of PAHs as required in the 1998 Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants, it therefore appears necessary to restrict the placing on the market and the use

¹ Not yet published in OJ

of **BaP and certain other PAHs in** extender oils and tyres.

of **PAH-rich** extender oils and **blends used as extender oils for the production of** tyres.

Justification

Improvement of the language, as extender oils are put onto the market, not BaP or certain other PAHs.

The directive should also apply to the components of blends to avoid that harmful PAH-rich oils continue to be used in diluted form, as this could happen according to the oil industry.

Amendment 2
RECITAL 8

(8) The adoption of harmonised test methods is **necessary** for the application of this Directive as regards the content of PAHs in extender oils and tyres. The adoption of such test methods should not delay the entry into force of this Directive. The test method should preferably be developed at European or international level, where appropriate by the European Committee for Standardisation (CEN) or by the International Organisation for Standardization (ISO). The Commission may publish references to the relevant CEN or ISO standards or establish such methods in accordance with Article 2a of Directive 76/769/EEC, where necessary.

(8) The adoption of harmonised test methods is **desirable** for the application of this Directive as regards the content of PAHs in extender oils and tyres. The adoption of such test methods should not delay the entry into force of this Directive. The test method should preferably be developed at European or international level, where appropriate by the European Committee for Standardisation (CEN) or by the International Organisation for Standardization (ISO). The Commission may publish references to the relevant CEN or ISO standards or establish such methods in accordance with Article 2a of Directive 76/769/EEC, where necessary.

Justification

It is preferable to use the word "desirable" in order for the implementation of the Directive not to be endangered if harmonised test methods are not yet available when the Directive enters into force. The wording is in line with that used in the 26th amendment of Directive 76/769/EEC.

Amendment 3

RECITAL 9 A (new)

(9a) 'Placing on the market' means the making available to third parties. Importation into the Community customs territory is deemed to be placing on the market for the purposes of this Directive. It is not the purpose of this Directive to

restrict the placing on the market of tyres produced before 1 January 2010 and which can thus be sold off from stocks subsequent to this date. The date of production of tyres can be easily recognised by the existing mandatory marking of the “date of manufacturing” on the tyre¹. Tyres produced before 1 January 2010 that are retreaded subsequent to this date must be retreaded with new tread containing new PAH-low extender oils.

¹ Council Directive 92/23/EEC of 31 March 1992 relating to tyres for motor vehicles and their trailers and to their fitting (OJ L 129, 14.5.1992, p. 95).

Justification

It is useful to recall the legal definition of placing on the market (Directive 67/548/EEC, art. 2(1)(e)).

All tyres manufactured or imported within the EU bear the "date of manufacturing" engraved visibly on the sidewall. On 1.1.2010, the tyre stocks containing high aromatic oils are estimated to represent less than 5% of the annual European market. A large portion of these stocks will be composed of small tyre series and usually kept for many years in stocks and needed by consumers.

Amendment 4

ARTICLE 2, PARAGRAPH 2

They shall apply those provisions from **1 January 2009**, with the exception of racing tyres for official sports events for which those provisions shall apply from 1 January 2012.

They shall apply those provisions from **1 January 2010**, with the exception of:

(i) tyres produced before this date and being sold off from stocks, and

(ii) racing tyres for official sports events, vintage tyres, specialist tyres imported in limited numbers into the European Union for Original Equipment (OE) and ‘special purpose vehicles’¹, for which those provisions shall apply from 1 January 2012.

¹ As referred to in Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (OJ L 42, 23.2.1970, p. 1. Directive last amended by Directive 2004/104/EC of the European Parliament and of the Council (OJ L 337, 13.11.2004, p. 13)) and defined in Annex XI of the same Directive.

Justification

Taking into account the technical complexity of the entire product range of oil-extended elastomers and tyres, the available development resources and the necessary adaptation of existing product business plans of several industry sectors, January 1 2010 is the earliest feasible scenario for the industry. Oil change requires for safety reasons full long-term technical verification for each tyre design involving extended road tests.

Speeding up the “substitution process” would entail the risk that some tyre segments may not be adequately tested to ensure continuing compliance across all technical and safety criteria.

Most vehicles can be fitted with tyres manufactured in Europe, but a small number of equipment and vehicles with specially designed tyres is supplied from outside the EU. To ensure continuity of supply and consumer choice, as much as product and passenger safety, a time limited transitional period must be granted for specialist tyres supplied to the EU in small numbers. This time is needed for development and production capabilities in the EU. At virtually no environmental and health risks, these tyres are essential, for example, for special government armoured vehicles, fire services and ambulances, farming, construction and mining equipment.

Amendment 5

ANNEX, RIGHT COLUMN, POINT 1
Annex I, Point xx (Directive 76/769/EEC)

(1) Extender oils may not be placed on the market and used for the production of tyres, ***if they contain more than 1 mg/kg BaP, or more than 10 mg/kg of the sum of all listed PAHs.***

(1) Extender oils may not be placed on the market and used for the production of tyres ***unless they, or each of the components of blends being used as extender oils, meet at least one of the following criteria:***

- ***to contain less than 3% PAC-dimethyl sulfoxide extract as measured by IP 346 method (for those oils where the 3% DMSO extract criterion is applicable according to the EU Dangerous Substance Directive 67/548/EEC¹)***
- ***BaP content to not exceed 1 mg/kg and the sum of the listed PAH's to not***

exceed 10 mg/kg (for those oils where the 3% DMSO extract is not applicable according to the EU Dangerous Substance Directive 67/548/EEC).

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- ¹ OJ 196, 16.8.1967, p. 1. Directive last amended by Commission Directive 2004/73/EC (OJ L 152, 30.4.2004, p. 1).

Justification

The approach proposed by the Commission focuses on substances that are classified as dangerous. A different approach based on method IP346 as the criteria for determining the carcinogenicity of certain oils is proposed by industry.

The purpose of the amendment is to allow either of the approaches by adding the IP346 limit values and increase the range of non-carcinogenic potential rubber extender oils permitted to be used, without affecting the level of protection afforded to the public and the environment as intended by both the Commission proposal and the draft report.

Amendment 6

ANNEX, RIGHT COLUMN, POINT 2 Annex I, point xx (directive 76/769/EEC)

(2) Furthermore, **the** tyres may not be placed on the market if they contain extender oils exceeding the limits indicated in paragraph 1.

(2) Furthermore, tyres **produced after 1 January 2010** may not be placed on the market if they contain extender oils exceeding the limits indicated in paragraph 1.
Compliance with those limits in tyres may be established only by using the analytical method under ISO 21461:200x, with a limit value of less than or equal to 0.35 % bay proton.

Justification

On implementation date of the Directive, a small quantity of tyres containing high aromatic oils will exist in the stocks. These tyres can be recognised easily through the marking of the “date of production” engraved visibly on the sidewall as a legal requirement under Council Directive 92/23/EC

The environmental impact resulting from the use of these tyres in stock will be negligible and it would make no sense for economical and environmental reasons not to put these tyres on the market and therefore destroy them.

For implementation of this directive a measuring method needs to be identified, and ISO

21461:200x is the appropriate method for identifying the type of oil contained in tyres.

If the measured level is less than or equal to 0.35 % bay proton, the extender oil used in the tyres is certain to comply with the requirements of the directive.

That limit value should be set by the directive.

Amendment 7

ANNEX, RIGHT COLUMN, POINT 3 A (new)

Annex I, Point [xx] (Directive 76/769/EEC)

(3a) Tread for retreading may not be placed on the market if it contains extender oils exceeding the limits indicated in paragraph 1.

Justification

It is necessary to cover the new tread that is put on the old carcasses.

EXPLANATORY STATEMENT

Background

The objective of this Directive is to introduce harmonized provisions with regard to the marketing and use of certain polycyclic aromatic hydrocarbons (PAH) in extender oils and tyres, thus preserving the functioning of the internal market whilst ensuring a high level of protection of health and the environment.

Certain PAHs are classified as carcinogenic, mutagenic and reprotoxic substances. Benzo-(a)pyrene (BaP), which can be a qualitative and quantitative marker for the presence of PAHs, is classified as carcinogenic, mutagenic and reprotoxic category 2 in the framework of Directive 67/548/EEC, and it can pose risks to the environment as well as to human health.

Areas of use

PAHs are constituents in oils, some of which are used as extender oils in the production of tyres. Tyre tread contains up to 28% extender oils with 17 to 357 mg/kg total PAHs (average 137mg/kg). The benzo[a]pyrene (BaP) concentration ranges between 1 and 16mg/kg (average 5mg/kg). These dangerous substances are released into the environment near the ground, in form of fine particles, through tyre debris which contains the extender oils, which, in turn, is incorporated into the water through rain and draining systems. According to the German Federal Environmental Agency, "if the use of PAH containing extender oil is stopped within limits for BaP of 1ppm and PAH of 10 ppm the PAH concentration in tyre tread would drop to about 0,33ppm for BaP and 3,3ppm for the PAH's, This will in consequence lead to a reduction of the PAH emissions from tyre wear of more than 95% within 5-6 years". The Directive covers car, light and heavy truck, agricultural and motorcycle tyres.

Commission proposal

On the basis of risk assessments the Commission proposes that the marketing and use of certain PAHs in extender oils and tyres be restricted above certain thresholds, in order to reduce the emission of tyre debris that contains carcinogens into the environment to an acceptable level, and to control the possible risks to health and the environment. That can be achieved by extending Annex I of Directive 76/769/EEC and adding these substances to the list of dangerous substances.

In order to meet the necessary safety requirements and in particular to ensure that tyres have a high degree of wet grip performance, a transitory period is proposed during which tyre producers will develop and test new tyres produced without high aromatic extender oils. The Directive should be applied to economic operators from 1 January 2009, except with regard to racing tyres to which the Directive should apply from January 2012.

Rapporteur's recommendations

The Rapporteur suggests very few amendments to the Commission's proposal, with the objective of having a clearer determination of the method used to detect these substances and

also to make sure that there will be more investigation on the uses of these substances in other oils, and their substitution where possible.

1. There is only a limited number of methods to detect this kind of substances. In order to guarantee the uniformity of method, the Rapporteur wishes to specify them. One of the methods mentioned, IP346, is the one proposed by the tyre and oil industry and also the analysis currently used in the classification of oils according to EU's Dangerous Substance Directive. The other two measurements required are the ones proposed by the Commission and mentioned above. The Rapporteur considers that IP346 should be added to the methods proposed and, according to it, extender oils may not be placed on the market if they contain more than 3% of PAC-dimethyl sulfoxide extract. However, since IP346 measures only the content of polycyclic aromatics and does not identify chemicals or forms of toxicity, it should be used in addition, but not instead, of the limits on specific PAHs. Following consultations with specialists, the Rapporteur accepts the addition of the recently developed method ISO 21461 with a limit value of 0,35% Hbay, used to detect PAHs in tyres.

2. Regarding the phase out date, the industry has solicited another year to be able to develop products according to the Directive. However, considering that there are several companies that already produce PAH reduced tyres and that according to the International Technical Journal for Polymer Materials, the production of "Shell Catenex SNR" began in 1997 and the first tyres containing a safer oil are already on the market (in Sweden for example producers have already been able to produce tyres without the highly aromatic oils), the Rapporteur considers the Commission timeframe sufficient for the development of safe tyres without the dangerous substances. Unfortunately, this proposal was not followed by the Committee.

PROCEDURE

Title	Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons in extender oils and tyres (twenty-seventh amendment of Council Directive 76/769/EEC)
References	COM(2004)0098 – C5-0081/2004 – 2004/0036(COD)
Legal basis	Articles 251(2) and 95 EC
Basis in Rules of Procedure	Rule 51
Date submitted to Parliament	13.2.2004
Committee responsible Date announced in plenary	ENVI 16.9.2004
Committee(s) asked for opinion(s) Date announced in plenary	TRAN 16.9.2004
Not delivering opinion(s) Date of decision	TRAN 28.7.2004
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Adamos Adamou 1.9.2004
Previous rapporteur(s)	
Simplified procedure Date of decision	
Legal basis disputed Date of JURI opinion	
Financial endowment amended Date of BUDG opinion	
European Economic and Social Committee consulted Date of decision in plenary	
Committee of the Regions consulted Date of decision in plenary	
Discussed in committee	7.3.2005 20.4.2005
Date adopted	20.4.2005
Result of final vote	for: 29 against: 2 abstentions: 2
Members present for the final vote	Georgs Andrejevs, Liam Aylward, Chris Davies, Avril Doyle, Mojca Drčar Murko, Karl-Heinz Florenz, Norbert Glante, Françoise Grossetête, Satu Hassi, Gyula Hegyi, Mary Honeyball, Caroline Jackson, Holger Krahmer, Aldis Kušķis, Roberto Musacchio, Riitta Myller, Miroslav Ouzký, Dimitrios Papadimoulis, Dagmar Roth-Behrendt, Guido Sacconi, Richard Seeber, Antonios Trakatellis, Thomas Ulmer, Marcello Vernola, Åsa Westlund
Substitutes present for the final vote	Margrete Auken, María del Pilar Ayuso González, Danutė Budreikaitė, Christofer Fjellner, Miroslav Mikolášik, María Isabel Salinas García, Robert Sturdy

Substitutes under Rule 178(2) present for the final vote	Fausto Correia	
Date tabled – A6	25.4.2005	A6-0104/2005
Comments	-	