



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.7.2002  
COM(2002) 334 final

2001/0018 (COD)

**OPINION OF THE COMMISSION**

**pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty,  
on the European Parliament's amendments  
to the Council's common position regarding the  
proposal for a**

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending for the twenty-fourth time Council Directive 76/769/EEC  
relating to restrictions on the marketing and use  
of certain dangerous substances and preparations (pentabromodiphenyl ether)**

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**1. STATE OF PROCEDURE**

The proposal [COM(2001) 12 final] was adopted by the Commission on 15 January 2001 and then transmitted to the Council and European Parliament.

The European Parliament approved the proposal with amendments in its first reading on 6 September 2001.

The Commission's amended proposal [COM(2001) 555 final] was adopted on 28 September 2001 and then transmitted to the Council.

The Council adopted its Common Position on 6 December 2001. Sweden, Denmark and the Commission made declarations.

The European Parliament adopted four amendments in its second reading on 10 April 2002.

The Economic and Social Committee gave its opinion on 25 April 2001.

**2. OBJECTIVE OF THE DIRECTIVE**

The objective of the proposal is to introduce harmonised provisions with regard to the marketing and use of pentabromodiphenyl ether in accordance with Article 95 of the Treaty concerning the establishment and functioning of the Internal Market. The objective is also to ensure a high level of protection for health and the environment.

### **3. OPINION OF THE COMMISSION ON THE AMENDMENTS PROPOSED BY THE EUROPEAN PARLIAMENT**

#### **3.1. Summary of the Commission's position**

The Commission can not accept the four amendments proposed by the European Parliament in its second reading.

#### **3.2. Amendments Nos 1 to 3**

The European Parliament proposed to add a ban on octabromodiphenyl ether to the Directive:

The Commission can not accept to widen the scope of the proposed Directive. The risk assessment procedures for octaBDE and decaBDE are still on-going although in advanced stages. The risk assessments must be finalised, as well as the evaluations on the availability of safe substitutes, before adequate measures can be proposed. The availability of safe substitutes is especially important in this case as lack of effective substitutes could lead to an increase in the number of casualties in fires.

The necessary information on the risk assessment and on the availability of substitutes for octaBDE and decaBDE are expected before the end of this year.

On the basis of these results the Commission will present new proposals. These should not hold up the entering into force of the present Directive on pentabromodiphenylether on which all three institutions agree.

#### **3.3. Amendment No 4**

The European Parliament proposed to add a ban on decaBDE taking effect from 1 January 2006, at the latest, if the risk assessment does not conclude that decaBDE causes no reason for concern.

The Commission's position on this is similar to that on Amendment No 1. Moreover, this amendment would, if accepted, only allow a total ban or no ban at all. The Commission favours a more nuanced approach which would mean that measures could take effect much earlier than 2006. The completion of the risk assessments and analyses of availability of safe substitutes would allow the uses of concern to be identified and appropriate measures to be taken quickly.

### **4. CONCLUSION**

Taking account of the above, the Commission delivers a negative opinion on the amendments and is not amending its proposal.