

**Amended 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) <sup>(1)</sup>**

(2002/C 25 E/04)

COM(2001) 555 final — 2001/0018(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 2 October 2001)

## **1. Background**

Transmission of the proposal to the Council and the European Parliament (COM(2001) 12 — 2001/0018(COD)) in accordance with Article 95 of the Treaty 16 January 2001

Opinion of the Economic and Social Committee 25 April 2001

Opinion of the European Parliament — first reading 6 September 2001.

## **2. Objective of the proposal**

The objectives of the proposal for a twenty-fourth amendment to Directive 76/769/EEC are to preserve the single market and to protect the environment. It would introduce a ban on the placing on the market and use of pentabromodiphenyl ether (pentaBDE).

Furthermore articles may not be placed on the market if they contain pentaBDE.

The aim of the amended proposal is to up-date the original proposal by taking account of recent technical developments, without modifying its general structure and objectives.

## **3. Commission opinion on the amendments adopted by the Parliament**

Of the eight amendments adopted by the Parliament one has been accepted by the Commission and part of another amendment accepted in principle.

### *3.1. Amendments accepted by the Commission*

According to new technical information octabromodiphenyl ether could be manufactured with less than 0,1 % pentabromodiphenyl ether by 2003. Consequently the proposed ban on pentabromodiphenyl ether in concentrations higher than 0,1 % would not have any effect on the possibility to market and use octabromodiphenyl ether. Therefore, the Commission can accept to delete the derogation on pentabromodiphenyl ether in concentrations of less than 5 % in technical grade octabromodiphenyl ether from the ban, i.e. to delete point 3 of the Annex to the Commission's proposal for a twenty-fourth amendment to Directive 76/769/EEC (Parliament's amendment No 5).

### *3.2. Amendments accepted in part or in principle by the Commission*

For the same reason the Commission can accept to clarify in a recital that octabromodiphenyl ether may not contain pentabromodiphenyl ether in concentrations higher than 0,1 % (first part of Parliament's amendment No 2).

Recital No 5 is modified as follows:

‘The commercially available, technical grade, diphenyl ethers are mixtures and contain molecules with different numbers of bromine atoms. Technical grade octabromodiphenyl ether (octaBDE) contains pentaBDE, in addition to mainly octaBDE and heptaBDE. In order to protect human health and the environment, the use of octaBDE containing more than 0,1 % pentaBDE should no longer be allowed once pentaBDE is restricted.’

<sup>(1)</sup> OJ C 154 E, 29.5.2001, p. 112.

### 3.3. *Further modifications to the proposal*

The Commission takes account of the need, identified by the Council, to further clarify point 1 of the Annex to the proposed Directive by introducing the words 'of substances or'.

Point 1 of the Annex is modified as follows:

'May not be placed on the market or used as a substance or as a constituent of substances or of preparations in concentrations higher than 0,1 % by mass.'

### 3.4. *Amendments not accepted by the Commission*

The Commission could not accept those amendments which would extend the scope of the proposed Directive to include bans also on other substances, i.e. octabromodiphenyl ether and decabromodiphenyl ether (Parliament's amendments No 1, second part of No 2, No 3, 4, 6, 15 and 16). These other substances could be the subject of a subsequent proposal of the Commission when risk assessments have been completed and the availability of safe substitutes analysed.

## 4. **Conclusion**

In accordance with Article 250(2) of the EC Treaty, the Commission amends its proposal as presented above.

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