

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 186 final - SYN 239

Brussels, 4 June 1991

Re-examined proposal for a

COUNCIL DIRECTIVE

amending for the 11th time Directive 76/769/EEC
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

(presented by the Commission pursuant to Article 149.2(d)
of the EEC treaty)

EXPLANATORY MEMORANDUM

On 17 April 1991 the European Parliament amended the common position adopted by the Council on 5 February 1991 on the abovementioned proposal.

Pursuant to Article 149(2)(d) of the EEC Treaty, the Commission has re-examined its proposal and decided:

- to accept the first part of amendment No 3;
- not to accept amendment No 1 and the second part of amendment No 3, as annexed.

The Commission is of the opinion that:

- amendment No 1, a recital referring to the Sixth Luxembourg Report, is out of place in such a proposal;
- the second part of amendment No 3 referring to disposal plans for UGILEC 141 is unnecessary. There is already a proposal for a Council Directive on this subject.

This proposal takes account of the amendment requested by the European Parliament which the Commission has been able to accept.

RE-EXAMINED PROPOSAL FOR A COUNCIL DIRECTIVE

**amending for the 11th time Directive 76/769/EEC
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**

**In Article 1 of Annex I, paragraph 1 in the right-hand
column of point 25 is hereby amended as follows:**

**"In the case of plant and machinery already in service three
years after the date of adoption of this Directive, until
such plant and machinery is disposed of or until it reaches
the end of its service life, which shall be no later than
eight years after adoption of this Directive for mining
machinery and fifteen years for transformers."**

ANNEX

(Amendments not accepted by the Commission)

Amendment No 1 Introducing a new recital 9a worded as follows:

"Whereas substitutes for use as hydraulic fluids in mining that satisfy all the provisions of the Sixth Luxembourg Report on requirements and tests for non-flammable hydraulic fluids for hydrostatic and hydrokinetic transmission and steering in mining operations, particularly the fire test and the thermal decomposition test, are not currently available in all Member States owing to varying national interpretations of the Luxembourg Report; whereas the only other solution in these cases is to convert the technology in question, which for technical and economic reasons requires a transitional period or derogations; whereas, in the light of the requirements both to reduce the risk to the environment and to increase the safety of miners, the Luxembourg Report should be amended in order to permit the use as hydraulic fluids (e.g. on a polyglycol basis) in all Member States of the fluids currently being tested as substitutes;"

Commission proposal

Such an amendment is out of place in this proposal, the sole purpose of which is to prohibit the marketing of these three substances. This new recital is concerned, above all, with protection at the workplace.

Amendment No 3 (second part) adding to paragraph 1 in the right-hand column of point 25 of Article 1 of Annex I the wording:

"Disposal plans shall be drawn up to this end;"

Commission position

Although the Commission has no fundamental disagreement with Parliament on the introduction of disposal plans for UGILEC 141, it cannot accept this amendment in the context of this Directive, where the sole objective is to prohibit the marketing and use of the substance.

Moreover, there is already a proposal for a Council Directive on this subject (COM(88)559 of 18 October 1988).

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DOCUMENTS

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