COMMISSION DIRECTIVE 1999/77/EC

of 26 July 1999

adapting to technical progress for the sixth time Annex I to Council 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 (asbestos)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/769/EEC of 27 July 1976 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 ([1]), as last amended by Directive 1999/43/EC of the European Parliament and of the Council ([2]), and in particular Article 2a thereof, introduced by Council Directive 89/678/EEC ([3]);

(1) Whereas the use of asbestos and products containing it can, by the release of fibres, cause asbestosis, mesothelioma and lung cancer; whereas placing on the market and use should therefore be subject to the severest possible restrictions;

(2) Whereas Council Directive 83/478/EEC ([4]) amending for the fifth time Directive 79/769/EEC specified that the crocidolite type of asbestos fibre and products containing it may, with three possible exceptions, no longer be placed on the market and used; whereas this same Directive established obligatory labelling provisions for all products containing asbestos fibres;

(3) Whereas Council Directive 85/610/EEC ([5]) amending for the seventh time Directive 76/769/EEC specified that asbestos fibres can no longer be placed on the market and used in toys, materials and preparations applied by spraying, retail products in powder form, smoking accessories, catalytic heaters, paints and varnishes;

(4) Whereas Commission Directive 91/659/EEC ([6]) adapting to technical progress Annex I of Directive 76/769/EEC specified that all of the amphibole type of asbestos fibres and products containing them may no longer be placed on the market and used; whereas this same directive specified that the chrysotile type of asbestos fibre and products containing it may no longer be placed on the market and used for fourteen categories of products;

(5) Whereas the Scientific Committee on Toxicity, Ecotoxicity and the Environment was consulted on the health effects of chrysotile asbestos and its substitutes;

(6) Whereas there are now available for most remaining uses of chrysotile asbestos substitutes or alternatives which are not classified as carcinogens and are regarded as less dangerous;

(7) Whereas no threshold level of exposure has yet been identified below which chrysotile asbestos does not pose carcinogenic risks;

(8) Whereas exposure of workers and other users of asbestos-containing products is extremely difficult to control and may greatly exceed current limit values on an intermittent basis and this category of exposure now poses the greatest risks for development of asbestos-related diseases;

(9) Whereas an effective way of protecting human health is to prohibit the use of chrysotile asbestos fibres and products containing them;

(10) Whereas the scientific knowledge about asbestos and its substitutes is continually developing; whereas the Commission will therefore ask the Scientific Committee on Toxicity, Ecotoxicity and the Environment to undertake a further review of any relevant new scientific data on the health risks of chrysotile asbestos and its substitutes before 1 January 2003; whereas this review will also consider other aspects of this directive, in particular the derogations, in the light of technical progress; whereas, if necessary, the Commission will propose appropriate changes to legislation;

(11) Whereas a period of adjustment is required to phase out the marketing and use of chrysotile asbestos and products containing it; whereas this period should be longer for diaphragms used for electrolysis in existing installations because the risk of exposure is extremely low and more time is necessary to develop suitable alternatives in this safety-critical application; whereas the Commission will review this derogation before 1 January 2008 after having consulted the Scientific Committee on Toxicity, Ecotoxicity and the Environment;

([1]) OJ L 262, 27.9.1976, p. 24.
([2]) OJ L 166, 1.7.1999, p. 87.
([3]) OJ L 398, 30.12.1989, p. 24.
([4]) OJ L 263, 24.9.1983, p. 33.
([5]) OJ L 375, 31.12.1985, p. 1.
([6]) OJ L 363, 31.12.1991, p. 36.