COMMISSION DIRECTIVE 1999/51/EC

of 26 May 1999

adapting to technical progress for the fifth time Annex I to Council Directive 76/769/EEC on the approximations 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 (tin, PCP and cadmium)

(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 approximations 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 Commission Directive 97/64/EC [2], and in particular Article 2a thereof, introduced by Council Directive 89/678/EEC [3],

(1) Whereas within the framework of the Act of Accession of Austria, Finland and Sweden to the European Union, in particular in Articles 69, 84 and 112 respectively, it is foreseen that during a period of four years from 1 January 1995 certain provisions of Annex I to Directive 76/769/EEC do not apply to Austria, Finland and Sweden and shall be reviewed in accordance with the procedures laid down in the EC Treaty;

(2) Whereas some organostannic compounds, in particular tributyltin (TBT), used for antifouling still pose a risk to the aquatic environment and to human health including possible endocrine disrupting activity; whereas the International Maritime Organisation (IMO) has recognised the risk posed by TBT and the Marine Environment Protection Committee of the IMO has called for a global prohibition of the application of organotin compounds which act as biocides in antifouling systems on ships by 1 January 2003; whereas the provisions on TBT shall be reviewed taking full account of developments in the IMO; whereas antifouling products providing for controlled release of TBT have been developed and these should be used in place of free association paint;

(3) Whereas inland waters and the Baltic Sea are especially sensitive environments; whereas the use of TBT in the inland waters of the Community should be prohibited; whereas, as an interim measure, Austria and Sweden shall be allowed to keep stricter provisions on the use of TBT in these sensitive environments;

(4) Whereas pentachlorophenol (PCP) still poses a risk to health and to the environment despite the restrictions introduced by Directive 76/769/EEC; whereas the use of PCP should be further restricted; whereas, nevertheless, certain uses of PCP are still necessary, for technical reasons, in the oceanic maritime Member States;

(5) Whereas the Council resolution of 25 January 1988 calls for an overall strategy to combat environmental pollution by cadmium, including measures to restrict the use of cadmium and stimulate development of substitutes; whereas the risks posed by cadmium are being assessed under Council Regulation (EEC) No 793/93 [4] and the Commission will review the restrictions on cadmium in light of the results; whereas as an interim measure Sweden and Austria which apply more far reaching restrictions may retain these;

(6) Whereas the Scientific Committee on Toxicity, Ecotoxicity and the Environment issued opinions on organotin compounds and on PCP;

(7) Whereas this Directive does not affect Community legislation laying down minimum requirements for the protection of workers contained in Council Directive 89/391/EEC [5] and in individual directives based thereon, in particular Council Directive 90/394/EEC [6] and Council Directive 98/24/EC [7] on protection of health and safety of workers from the risk related to chemical agents at work;

[1] OJ L 262, 27.9.1976, p. 24.
[2] OJ L 315, 19.11.1997, p. 13.
[3] OJ L 398, 30.12.1989, p. 24.
[4] OJ L 84, 5.4.1993, p. 1.
[5] OJ L 183, 29.6.1989, p. 1.
[6] OJ L 196, 26.7.1990, p. 1.
[7] OJ L 131, 5.5.1998, p. 11.

(8) Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the adaptation to technical progress of Directives on the removal of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex 1 to Directive 76/769/EEC is hereby adapted to technical progress as set out in the Annex hereto.

Article 2

1. Member States shall adopt and publish the provisions necessary to comply with this Directive by 29 February 2000 at the latest and shall forthwith inform the Commission thereof. They shall apply these provisions as from 1 September 2000. However, Austria, Finland and Sweden may apply these provisions from 1 January 1999 except where otherwise specified in the Annex.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities.*

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 26 May 1999.

For the Commission

Martin BANGEMANN

Member of the Commission