DIRECTIVE 1999/43/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 May 1999

amending for the 17th 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

(1) Whereas the necessary measures should be adopted for the smooth operation of the internal market;

(2) Whereas the European Parliament and the Council adopted on 29 March 1996 Decision No 646/96/EC of the European Parliament and of the Council of 29 March 1996 adopting an action plan to combat cancer within the framework for action in the field of public health (1996 to 2000) [4];

(3) Whereas, to improve health protection and consumer safety, substances classified as carcinogenic, mutagenic or toxic to reproduction and preparations containing them should not be placed on the market for use by the general public;

(4) Whereas Directive 94/60/EC of the European Parliament and of the Council of 20 December 1994 amending for the 14th 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 [5] establishes, in the form of an Appendix concerning points 29, 30 and 31 of Annex I to Directive 76/769/EEC [6], a list containing substances classified as carcinogenic, mutagenic or toxic to reproduction of category 1 or 2; whereas such substances and preparations should not be placed on the market for use by the general public;

(5) Whereas Directive 94/60/EC provides that the Commission will submit to the European Parliament and Council a proposal to extend this list not later than six months after publication of an adaptation to technical progress of Annex I to Directive 67/548/EEC [7], which contains substances classified as carcinogenic, mutagenic or toxic to reproduction of category 1 or 2;

(6) Whereas Commission Directive 96/54/EC [8] adapting for the 22nd time Directive 67/548/EEC, and more particularly Annex I thereto, to technical progress, contains 16 substances newly classified as carcinogenic, mutagenic or toxic to reproduction of category 1 or 2; whereas these substances should be added to points 29, 30 and 31 of the Appendix to Annex I to Directive 76/769/EEC, as consolidated by Directive 97/56/EC of the European Parliament and of the Council [9] amending Directive 76/769/EEC for the 16th time;

(7) Whereas the risks and advantages of the substances newly classified, by Directive 96/54/EC, as carcinogenic, mutagenic and toxic to reproduction of category 1 or 2 have been taken into account;

(8) Whereas Article 1(1)(f) of Directive 96/54/EC deletes eight entries from Annex I to Directive 67/548/EEC as the substances under these entries are already covered by other entries or their classification as carcinogens has been withdrawn; whereas five of these substances are included in the Appendix to point 29 of Annex I to Directive 76/769/EEC; whereas these entries should also be deleted in the latter Directive;

[1] OJ C 59, 25.2.1998, p. 5.
[2] OJ C 214, 10.7.1998, p. 73.
[3] Opinion of the European Parliament of 18 February 1998 (OJ C 80, 16.3.1998, p. 91), Council Common Position of 14 December 1998 (OJ C 18, 22.1.1999, p. 43) and Decision of the European Parliament of 10 February 1999 (OJ C 150, 28.5.1999). Council Decision of 10 May 1999.
[4] OJ L 95, 16.4.1996, p. 9.
[5] OJ L 365, 31.12.1994, p. 1.
[6] Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1). Directive as last amended by Commission Directive 97/69/EC (OJ L 343, 13.12.1997, p. 19).
[7] OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 97/64/EC (OJ L 315, 19.11.1997, p 13).
[8] OJ L 248, 30.9.1996, p. 1.
[9] OJ L 333, 4.12.1997, p. 1.

(9) Whereas this Directive applies without prejudice to Community legislation laying down minimum requirements for the protection of workers contained in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work [1], and individual directives based thereon, in particular Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391 /EEC) [2],

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The substances listed in Annex I to this Directive shall be added to those substances listed in the Appendix concerning points 29, 30 and 31 of Annex I to Directive 76/769/EEC.

Article 2

The substances listed in Annex II to this Directive shall be deleted from those substances listed in the Appendix to point 29 of Annex I to Directive 76/769/EEC.

Article 3

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than one year after the date of its entry into force. They shall inform the Commission thereof forthwith.

They shall apply these measures 18 months after the date of the entry into force of this Directive.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 25 May 1999.

For the European Parliament	*For the Council*
The President	*The President*
J. M. GIL-ROBLES	H. EICHEL

[1] OJ L 183, 29.6.1989, p. 1.
[2] OJ L 196, 26.7.1990, p. 1.