II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 3 December 1991

adapting to technical progress 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)

(91/659/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic 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 91/339/EEC (2), and in particular Article 2a thereof, introduced by Directive 89/678/EEC (3),

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

Whereas Council Directive 83/478/EEC (4) amending for the fifth time Directive 76/769/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;

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;

Whereas improved monitoring of the marketing and use of dangerous asbestos fibres is necessary to protect human heath, especially as there are for certain uses substitute products regarded, on the basis of risk analysis, as less dangerous;

Whereas a very effective way of protecting human health and the environment is to prohibit the use of certain fibres, such as those of amphibole asbestos, which according to some scientific sources are particularly dangerous; whereas for practical reasons such a prohibition can not for the time being be extended to naturally-occuring materials such as ores and sand containing asbestos fibres as natural impurities;

Whereas a fibre fixity test to assess the dangers posed by particular asbestos-containing products is not yet widely available; whereas, notwithstanding this, products should be promoted which reduce the overall risk to man and the environment;

Whereas Council Directive 91/382/EEC (6) amends Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC);

(1) OJ No L 262, 27. 9. 1976, p. 201.
(2) OJ No L 186, 12. 7. 1991, p. 64.
(3) OJ No L 398, 30. 12. 1989, p. 24.
(4) OJ No L 263, 24. 9. 1983, p. 33.
(5) OJ No L 375, 31. 12. 1985, p. 1.
(6) OJ No L 206, 29. 7. 1991, p. 16.