COUNCIL DIRECTIVE

of 18 June 1991

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

(91/339/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas measures for the progressive establishment of the internal market should be adopted over a period expiring on 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas Directive 76/769/EEC (4), as last amended by Directive 91/338/EEC (5), imposes, in its version as amended by Directive 85/467/EEC (6), severe restrictions on the marketing and use of PCBs and PCTs as a consequence of the risks to man and the environment;

Whereas several substitutes have been developed to replace PCBs; whereas some of these substitutes, though less dangerous to man and the environment than PCBs and PCTs, nevertheless constitute a potentially high risk to man and the environment;

Whereas it is therefore necessary to restrict the marketing and use of these substitutes;

Whereas the substance bearing the trade name Ugilec 141 has been on the market since 1981; whereas this substance or preparations containing this substance are currently used as a dielectric fluid in condensers and transformers and as a hydraulic fluid in coal mines; whereas it is recognized that this substance is less dangerous to man and the environment than the PCBs it was designed to replace;

Whereas by virtue of its ecotoxcity, persistence and potential to bioaccumulate, this substance nevertheless constitutes a high risk to the environment; whereas significant environmental contamination has already been documented in the vicinity of mining operations using this substance as a hydraulic fluid; whereas in the event of a fire involving any equipment containing this substance highly toxic substances may be given off; whereas final disposal of Ugilec 141 requires special procedures;

Whereas the substance bearing the trade name Ugilec 121 or Ugilec 21, being a new substance, was notified on 15 March 1984, in accordance with Council Directive 79/831/EEC of 18 September 1979 amending for the sixth time Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (7) and can therefore be marketed throughout the Community; whereas this substance has similar properties and behaviour and was intended for uses similar to that Ugilec 141; whereas the manufacturer has subsequently withdrawn the substance Ugilec 121 or 21 voluntarily from the market; whereas restrictive measures are necessary to ensure that the preparations or products containing the said substance are not re-introduced on the market at a future date;

Whereas the substance bearing the trade name DBBT, being also a new substance, was notified in accordance with Directive 79/831/EEC on 16 February 1988 and can therefore be marketed throughout the Community; whereas the intended use of this substance either on its own or in preparations is as a hydraulic fluid in coal mines; whereas in the meantime a temporary official authorization granted in one Member State has expired; whereas such usage can be expected to result in significant environmental contamination; whereas by virtue of its ecotoxicity, persistence and potential to bioaccumulate this substance constitues a potentially high risk to the environment; whereas restrictive measures should be introduced before this substance has become established on the Community market;

Whereas effective replacements or alternative approaches already exist which make the continued use of these three substances unnecessary;

(1) OJ No C 24, 1. 2. 1990, p. 20.
(2) OJ No C 284, 12. 11. 1990, p. 84 and OJ No C 129, 20. 5. 1991.
(3) OJ No C 168, 10. 7. 1990, p. 1.
(4) OJ No L 262, 27. 9. 1976, p. 201.
(5) See page 59 of this Official Journal.
(6) OJ No L 269, 11. 10. 1985, p. 56.
(7) OJ No L 259, 15. 10. 1979, p. 10.