II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 18 June 1991

amending for the 10th 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

(91/338/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 the Council resolution of 25 January 1988 (4) invites the Commission to pursue without delay the development of specific measures for a Community action programme to combat environmental pollution by cadmium; whereas human health also has to be protected and an overall strategy that in particular restricts the use of cadmium and stimulates research into substitutes should therefore be implemented;

Whereas advances are being made in knowledge and techniques regarding substitutes; whereas it would therefore be advisable systematically to reassess the situation in the light of the results of the scientific and technical studies provided for in the said resolution;

Whereas polyvinyl chloride (PVC) may not be coloured using cadmium-based pigments; whereas, for certain particular applications, the use of a cadmium-based stabilizer is still necessary in the current state of technology;

Whereas restrictions already adopted by certain Member States on the use and marketing of the abovementioned substances or preparations containing them have a direct effect on the establishment and functioning of the internal market; whereas it is therefore necessary to approximate the laws of the Member States in this field and to amend Annex I to Directive 76/769/EEC (5), as last amended by Directive 89/678/EEC (6), accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby amended as set out in the Annex hereto. However, the new provisions shall not apply to products containing cadmium which are already covered by other Community legislation.

(1) OJ No C 8, 13. 1. 1990, p. 8 and amendment communicated 26 November 1990.
(2) OJ No C 260, 15. 10. 1990, p. 92 and OJ No C 129, 20. 5. 1991.
(3) OJ No C 112, 7. 5. 1990, p. 1.
(4) OJ No C 30, 4. 2. 1988, p. 1.
(5) OJ No L 262, 27. 9. 1976, p. 201.
(6) OJ No L 398, 30. 12. 1989, p. 24.

Article 2

Owing to the development of knowledge and techniques in respect of substitutes less dangerous than cadmium and its compounds, the Commission shall, in consultation with the Member States, reassess the situation for the first time within three years of the date referred to in Article 3 (1) and subsequently at regular intervals in accordance with the procedure laid down in Article 2a of Directive 76/769/EEC.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 December 1992. They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, 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 a reference shall be laid down by the Member States.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 18 June 1991.

For the Council

The President

G. WOHLFART