

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive 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'

(97/C 133/13)

On 7 February 1997 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community on the above-mentioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, appointed a drafting group. The rapporteur was Mr Green.

The Economic and Social Committee decided to appoint Mr Green as rapporteur-general for its opinion. At its 343rd plenary session (meeting of 27 February 1997), the Economic and Social Committee adopted the following opinion unanimously.

1. Background

1.1. The Technical Progress Committee working party on the classification and labelling of dangerous substances and preparations has reviewed all the available data on complex petroleum and coal tar products and has assessed them for their carcinogenicity. The result of the assessment was published in Directive 94/69/EEC⁽¹⁾, the 21st Adaptation to Technical Progress (ATP) of the Dangerous Substances Directive. The 21st ATP introduced a large number of category 1 or 2 carcinogenic/mutagenic/toxic to reproduction (c/m/r) substances into Annex 1 of the Dangerous Substances Directive (67/548/EEC)⁽²⁾.

1.2. To assist in the assessment, the petroleum and coal tar industries divided the substances listed in the European Inventory of Existing Commercial Chemical Substances (Einecs) into groups of similar substances and the subsequent assessment for carcinogenicity was made on a group basis⁽³⁾. To assist further, the presence of known carcinogenic marker substances⁽⁴⁾ was used as the criterion for carcinogenicity. Where this was done

⁽¹⁾ OJ No L 381, 31. 12. 1994.

⁽²⁾ OJ No L 196, 16. 8. 1967.

⁽³⁾ Example: list of the petroleum substance group:

- Crude oil;
- Petroleum gases;
- Gasolines (7 groups);
- Gas oils (3 groups);
- Heavy Fuel oils;
- Greases;
- Lubricating base oils (3 groups);
- Aromatic extracts (4 groups);
- Waxes & Petrolatum (3 groups);
- Foots oils;
- Refinery gases.

⁽⁴⁾ The conditions for classification as carcinogen on the basis of the marker substance are presented in Annex 1 of Directive 67/548/EEC by notas from J to P. See also Appendix to this proposal.

a specific nota was associated with the classification described in the 21st ATP.

1.3. Although many substances have been classified, this represents only some of the product groups, and of these even fewer are actually sold to the general public. Most of the substances are either for industrial uses or are used as intermediates in other processes. This is the case for both the petroleum and the coal tar products.

1.4. Directive 94/60/EC⁽⁵⁾, the 14th amendment to Directive 76/769/EEC⁽⁶⁾ relating to restrictions on the marketing and use of certain dangerous substances and preparations, requires that substances classified as c/m/r should be prohibited for sale to the general public. However, it does include an important derogation for petroleum fuels, e.g. gasoline and LPG.

2. The proposal

2.1. The proposed 17th amendment merely introduces those substances classified in the 21st ATP of Directive 67/548/EEC as carcinogenic into the appendix of Directive 76/769/EEC thereby prohibiting their sale to the general public.

2.2. The proposed amendment additionally updates the appendix of Directive 76/769/EEC by also introducing other substances which have been classified as either carcinogenic or mutagenic or toxic to reproduction, since the publication of the 14th amendment.

2.3. The industries responsible for producing the substances included in the proposed 17th amendment have been consulted and have confirmed that they do

⁽⁵⁾ OJ No L 365, 31. 12. 1994.

⁽⁶⁾ OJ No L 262, 27. 9. 1976.

not oppose the inclusion of such substances. This is because the carcinogenic substances under consideration (except fuels) are not sold to the general public.

2.4. To protect the health of workers in their workplace, the requirements of the Carcinogens Directive (90/394/EEC) ⁽¹⁾ apply to those substances which are classified as carcinogens and are used industrially.

3. General comments

3.1. The Economic and Social Committee approves the Commission proposal to amend for the 17th time Directive 76/769/EEC.

3.2. The Committee especially welcomes the steps being proposed by the Commission at EU community level to protect consumers from exposure to c/m/r substances. These measures are complementary to those already existing with regard to the protection of workers from carcinogenic substances as provided for in the above-mentioned Carcinogens Directive, the full implementation of which is considered essential by the Committee.

⁽¹⁾ OJ No L 196, 26. 7. 1990.

Brussels, 27 February 1997.

3.3. Although the proposed amendment to 76/769/EEC has the effect of preventing c/m/r substances being placed on the market for the general public, the Committee considers that it would be better if the restriction on the sale of such substances would follow automatically after their classification under the requirements of Directive 67/548/EEC.

3.4. In this case, it notes that the use of a committee procedure would help to speed up the process of implementing a restriction on the marketing and use of c/m/r substances, although there would have to be prior consultation of the various socio-economic partners and interests involved.

4. Specific comments

4.1. It is noted that there is a derogation for petroleum derived fuels in the 14th amendment to Directive 76/769/EEC so that, even if they contain c/m/r substances, they will be permitted for sale to the general public provided that they are burned during use. Nevertheless, the Committee urges that steps should be taken to reduce emission of benzene from service stations.

4.2. The Committee noted the vagueness of Nota N which is assigned to certain of the c/m/r substances and advises that the wording of this Nota needs clarification.

The President
of the Economic and Social Committee
Tom JENKINS
