

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 123 final
Brussels, 19 March 1979

Proposal for a
COUNCIL DIRECTIVE

amending for the second time the Annex to 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

(submitted to the Council by the Commission)

COM(79) 123 final

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EXPLANATORY MEMORANDUM

I. GENERAL

1. As children's nightwear treated with tris (2,3 dibromopropyl) phosphate fireproofing agent and imported from the United States of America, where the use of this substances has been prohibited since 8 August 1977, had appeared on the French market, the French authorities issued on 1 June 1978 as an emergency procedure an Order suspending for a period of one year the manufacture, importation and marketing of all garments and textile articles fireproofed with this substance.

For the same reasons, the Belgian authorities issued a Royal Decree on 5 June 1978 prohibiting the marketing of garments and of fabrics intended for garment manufacture that had been treated with tris (2,3 dibromopropyl) phosphate. The United Kingdom has also notified the Commission of a similar prohibition.

2. The results of toxicological tests carried out on this substance throw doubts on its harmlessness and mutagenicity tests have proved positive. What is more, studies carried out by the US Consumer Product Safety Commission have proved that this substance is absorbed through the skin in rabbits and causes testicular atrophy and nephrosis. The National Cancer Institute has also stated, after verifying initial data, that this substance is carcinogenic in both the rat and the mouse.
3. Differing measures taken unilaterally to ban products fireproofed with this substance can cause distortion on the Community market and have a direct impact on its functioning. A community solution on harmonisation of national provisions is therefore essential, especially as in this case dangerous substances and preparations are involved.

II. COMMENTS ON THE ARTICLES

Article 1

This extends the scope of the Annex to Council Directive 76/769/EEC (1) relating to restrictions on the marketing and use of certain dangerous substances and preparations by prohibiting the use of tris (2,3 dibromopropyl) phosphate to treat textile articles, especially garments, knitwear and fabrics that come into contact with the skin.

Article 2 and 3

These articles are common to all directives.

III. CONSULTATION OF THE EUROPEAN PARLIAMENT AND OF THE ECONOMIC AND SOCIAL COMMITTEE

Pursuant to the second paragraph of Article 100 of the EEC Treaty, these two bodies must give their opinion.

(1) OJ No L 262, 27.9.1976, p. 201

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas thorough investigations have shown that the substance tris
(2,3 dibromopropyl) phosphate (CAS No 126-72-7), which is used to fire-
proof garments, and especially children's garments, presents health
hazards; whereas its use should therefore be restricted;

Whereas the substance referred to above is subject to regulations in some
Member States; whereas these regulations differ as regards the conditions
for marketing and use; whereas these differences represent a barrier to
trade and have a direct impact on the establishment and functioning of
the common market;

Whereas it is consequently necessary to amend the Annex to Council
Directive 76/769/EEC¹, as amended by Directive 2.

¹ OJ No L 262, 27.9.1976, p. 201

² OJ No L

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following is added to the Annex to Directive 76/769/EEC:

"4. Tris (2,3 dibromopropyl) phosphate CAS No (Chemical Abstract Service Number) 126-72-7	Shall not be used to treat textile articles, especially garments, knitted and crocheted articles and bedlinen, coming into contact with the skin."
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Article 2

1. Member States shall take the measures necessary to comply with this Directive before 1 January 1980.
2. As soon as this Directive has been notified, Member States shall inform the Commission, in sufficient time for it to submit its comments, of the draft laws, regulations or administrative provisions which they intend to adopt in the field covered by this Directive.

Article 3

This Directive is addressed to the Member States.