

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 1 October 1985

amending for the sixth time (PCBs/PCTs) 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

(85/467/EEC)

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 ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) may constitute serious risks to health and to the environment;

Whereas it has been ascertained that, despite the restriction on the use of PCBs and PCTs introduced by Directive 76/769/EEC ⁽³⁾, as last amended by Directive 83/478/EEC ⁽⁴⁾, there is generally no indication that pollution of the environment by PCBs and PCTs has lessened significantly; whereas highly toxic substances may be given off in the event of fires; whereas therefore the threshold laid down in Directive 76/769/EEC of 0,1 % by weight of PCBs and PCTs in preparations must be substantially lowered;

Whereas, since Directive 76/769/EEC was adopted, substitutes have been developed which are considered

less dangerous to human beings and the environment; whereas the continued marketing of PCBs and PCTs is therefore no longer justified under present circumstances, except in certain exceptional cases of limited duration;

Whereas the use of PCBs and PCTs in certain plant and equipment in service at present should continue to be authorized until they have been disposed of or until the end of the service life of the plant and equipment; whereas Member States may nevertheless ban the use of PCBs and PCTs within their territory before the end of the service life of the plant and equipment;

Whereas the Member States should be permitted to authorize exceptions to the ban on the use of PCBs and PCTs as primary and intermediate products where certain conditions are fulfilled, in particular where they consider that there is no danger to public health and the environment;

Whereas a more general ban on the use of PCBs and PCTs is not feasible at this stage; whereas, however, this Directive constitutes an important step towards such a ban,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Point 1 of Annex I to Directive 76/769/EEC is hereby replaced by the text in the Annex to this Directive.

⁽¹⁾ OJ No C 141, 10. 6. 1985, p. 76.

⁽²⁾ OJ No C 104, 25. 4. 1985, p. 1.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 201.

⁽⁴⁾ OJ No L 263, 24. 9. 1983, p. 33.

2. Annex II to Directive 76/769/EEC is hereby amended as follows:

- the existing Annex II shall become Annex II, part A;
- part B below shall be added:

'B. Specific provisions relating to the labelling of products containing PCBs and PCTs

Without prejudice to the provisions of other Directives relating to the labelling of dangerous substances and preparations, Member States may require equipment and plant containing PCBs or PCTs also to display instructions concerning the disposal of PCBs and PCTs and the maintenance and use of equipment and plant containing them. These instructions must be capable of being read horizontally when the object containing the PCBs or PCTs is installed in the normal way. The inscription must stand out clearly from its background.

Member States may require the inscription to be in a language which is understood in their territory.'

Article 2

1. Member States shall take the measures necessary to comply with this Directive by 30 June 1986 at the latest. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 1 October 1985.

For the Council

The President

J. F. POOS

ANNEX

Designation of the substance, of the groups of substances or of the preparation	Conditions of restriction
<p>1. — Polychlorinated biphenyls (PCB) except mono- and dichlorinated biphenyls</p> <p>— Polychlorinated terphenyls (PCTs)</p> <p>— Preparations, including waste oils, with a PCB or PCT content higher than 0,01 % by weight.</p>	<p>May not be used. However, the following categories may be used under the following conditions :</p> <ol style="list-style-type: none"> 1. until 30 June 1986 at the latest : closed-system electrical equipment transformers, resistors and inductors ; 2. until 30 June 1986 at the latest : large condensers (≥ 1 kg total weight) ; 3. until 30 June 1986 at the latest : small condensers (provided that the PCB has a maximum chlorine content of 43 % and does not contain more than 3,5 % of penta- and higher chlorinated biphenyls) ; 4. until 30 June 1986 at the latest : heat-transmitting fluids in closed-circuit heat-transfer installations : 5. until 30 June 1986 at the latest : hydraulic fluids for underground mining equipment ; <p>— The use of equipment, plant and fluids referred to in points 1 to 5 above which are in service on 30 June 1986 shall continue to be authorized until they are disposed of or reach the end of their service life.</p> <p>— Member States may, for reasons of protection of health and the environment, prohibit within their territory the use of such equipment, plant and fluids before they are disposed of or reach the end of their service life.</p> <p>— The placing on the second-hand market of such equipment, plant and fluids which are not intended for disposal shall be prohibited from 30 June 1986 onwards.</p> <p>— Where the Member States consider that it is not possible for technical reasons to use substitute products, they may continue to authorize the use of PCBs, PCTs and preparations thereof where the latter are solely intended, in the normal conditions of maintenance of equipment, to supplement the level of liquids containing PCBs in properly functioning existing plant purchased before the entry into force of this Directive.</p> <ol style="list-style-type: none"> 6. until 30 June 1986 at the latest : primary and intermediate products for further processing into other products not prohibited by Directive 76/769/EEC and the Directives amending it ; after 30 June 1986 Member States may, provided prior notification stating the reasons is sent to the Commission, grant derogations from the ban on the marketing and use of such primary and intermediate products, in so far as they consider that these derogations have no deleterious effects on health and the environment.