Proposal for a Directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment

(2000/C 365 E/13)

(Text with EEA relevance)

COM(2000) 347 final — 2000/0159(COD)

(Submitted by the Commission on 28 July 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Committee of Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) The disparities between the laws or administrative measures adopted by the Member States as regards the restriction of the use of hazardous substances in electrical and electronic equipment could create barriers to trade and distort competition in the Community and may thereby have a direct impact on the establishment and functioning of the internal market. It therefore appears necessary to approximate the laws of the Member States in this field.

(2) The objectives and principles of the Community's environment policy are, in particular, to prevent, reduce and as far as possible eliminate pollution.

(3) The Commission Communication of 30 July 1996 on the review of the Community strategy for waste management [1] stresses the need to reduce the content of hazardous substances in waste and points out the potential benefits of Community-wide rules limiting the presence of such substances in products and in production processes.

(4) The Council Resolution of 25 January 1988 on a Community action programme to combat environmental pollution by cadmium [2] invites the Commission to pursue without delay the development of specific measures for such a programme. 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. The Resolution stresses that the use of cadmium should be limited to cases where suitable and safer alternatives do not exist.

(5) The available evidence indicates that measures on the collection, treatment, recycling and disposal of waste electrical and electronic equipment (WEEE) as set out in Directive ... of the European Parliament and of the Council on waste electrical and electronic equipment are necessary to reduce the waste management problems linked to the heavy metals concerned and the flame retardants polybrominated biphenyls (PBB) and polybrominated diphenyl ether (PBDE). In spite of those measures, however, significant parts of WEEE will continue to be found in the current disposal routes. Even if WEEE were collected separately and submitted to recycling processes, its content of mercury, cadmium, lead, chromium VI, PBB and PBDE would be likely to pose risks to health or the environment.

(6) Taking into account technical and economic feasibility, the most effective way of ensuring the significant reduction of risks to health and the environment related to those substances which can achieve the chosen level of protection in the Community is the substitution of those substances in electrical and electronic equipment by safe or safer materials.

(7) The substances covered by this Directive are scientifically well researched and evaluated and have been subject to different measures both at Community and national level.

(8) The measures provided for in this Directive take into account existing international guidelines and recommendations and are based on an assessment of available scientific and technical information. The measures are necessary to achieve the chosen level of protection of human and animal health and the environment, having regard to the risks which the absence of measures would be likely to create in the Community. The measures should be kept under review and, if necessary, adjusted to take account of available technical and scientific information.

[1] COM(96) 399 final.

[2] OJ C 30, 4.2.1988, p. 1.

(9) This Directive should apply without prejudice to Community legislation on safety and health requirements and specific Community waste management legislation, in particular Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances [1], as amended by Commission Directive 98/101/EC [2].

(10) The technical development of electrical and electronic equipment without heavy metals, PBDE and PBB should be taken into account.

(11) Exemptions from the substitution requirement should be permitted if substitution is not possible from the scientific and technical point of view or if the negative environmental or health impacts caused by substitution are likely to outweigh the human, animal and environmental benefits of the substitution. The health and safety of users of electrical and electronic equipment should also not be jeopardised by the substitution of the hazardous substances in electrical and electronic equipment.

(12) Since the measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [3], they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The purpose of this Directive is to approximate the laws of the Member States on the restrictions of the use of hazardous substances in electrical and electronic equipment and to contribute to the environmentally sound recovery and disposal of waste electrical and electronic equipment.

Article 2

Scope

1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in Annex I A to Directive . . . [on waste electrical and electronic equipment].

2. Article 4 shall not apply to electrical and electronic equipment falling under categories 8, 9 and 10 of Annex I A to Directive . . . [on waste electrical and electronic equipment].

3. This Directive shall apply without prejudice to Community legislation on safety and health requirements and specific Community waste-management legislation.

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

(a) 'electrical and electronic equipment' means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1 000 Volts for alternating current and 1 500 Volts for direct current;

(b) 'producer' means any person who manufactures and sells electrical and electronic equipment under his own brand, who resells under his own brand equipment produced by other suppliers or who imports that equipment on a professional basis into a Member State.

Article 4

Prevention

1. Member States shall ensure that with effect from 1 January 2008 the use of lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ether (PBDE) in electrical and electronic equipment is substituted by other substances.

2. Paragraph 1 shall not apply to the applications of lead, mercury, cadmium and hexavalent chromium listed in the Annex.

Article 5

Adaptation to scientific and technical progress

1. Any amendments which are necessary in order to adapt the Annex to scientific and technical progress for the following purposes shall be adopted in accordance with the procedure referred to in Article 7(2):

(a) establishing, as necessary, maximum concentration values up to which the presence of the substances referred to in Article 4(1) in specific materials and components of electrical and electronic equipment shall be tolerated;

(b) exempting materials and components of electrical and electronic equipment from Article 4(1) if the use of the substances referred to therein in those materials and components is technically or scientifically unavoidable or where the negative environmental and/or health impacts caused by substitution are likely to outweigh the environmental benefits thereof;

[1] OJ L 78, 26.3.1991, p. 38.

[2] OJ L 1, 5.1.1999, p. 1.

[3] OJ L 184, 17.7.1999, p. 23.

(c) deleting materials and components of electrical and electronic equipment from the Annex if the use of the substances referred to in Article 4(1) in these materials and components is avoidable, provided that the negative environmental and/or health impacts caused by substitution do not outweigh the possible environmental benefits thereof.

2. Before the Annex is amended pursuant to paragraph 1, the Commission shall consult producers of electrical and electronic equipment.

Article 6

Review

By 31 December 2003 at the latest, the Commission shall review the measures provided for in this Directive to take into account, as necessary, new scientific evidence.

Article 7

Committee

1. The Commission shall be assisted by the committee instituted by Article 18 of Directive 75/442/EEC ([1]).

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

Article 8

Transposition

1. Member States shall bring into force the law, regulations and administrative provisions necessary to comply with this Directive by 30 June 2004 [18 months after the date of adoption] at the latest. They shall immediately inform the Commission thereof.

2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of all existing laws, regulations and administrative provisions adopted in the field covered by this Directive.

Article 9

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 10

Addressees

This Directive is addressed to the Member States.

([1]) OJ L 194, 25.7.1975, p. 39.

ANNEX

Applications of lead, mercury, cadmium and hexavalent chromium, which are exempted from the requirements of Article 4(4)

— Mercury in compact fluorescent lamps not exceeding 5 mg per lamp

— Mercury in straight fluorescent lamps not exceeding 10 mg per lamp

— Mercury in lamps not specifically mentioned in this Annex

— Mercury in laboratory equipment

— Lead as radiation protection

— Lead in glass of cathode ray tubes, light bulbs and fluorescent tubes

— Lead as an alloying element in steel containing up to 0,3 % lead by weight, aluminium containing up to 0,4 % lead by weight and as a copper alloy containing up to 4 % lead by weight

— Lead in electronic ceramic parts

— Cadmium oxide on the surface of selenium photocells

— Cadmium passivation as an anti-corrosion in specific applications

— Cadmium, mercury and lead in hollow cathode lamps for atomic absorption spectroscopy and other instruments to measure heavy metals

— Hexavalent chromium as an anti-corrosion of the carbon steel cooling system in absorption refrigerators.