Basic information

2001/0018(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC) **Subject** 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport) 4.60.04.02 Consumer security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	RIES Frédérique (ELDR)	26/06/2002

Former committee responsible	Former rapporteur	Appointed
ENVI Environment, Public Health, Consumer Policy	RIES Frédérique (ELDR)	24/01/2001
ENVI Environment, Public Health, Consumer Policy	RIES Frédérique (ELDR)	24/01/2001

Former committee for opinion	Former rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	2371	2001-09-27
Transport, Telecommunications and Energy	2395	2001-12-06
Environment	2473	2002-12-09

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	

Key events

Date	Event	Reference	Summary
15/01/2001	Legislative proposal published	COM(2001)0012	Summary
18/01/2001	Committee referral announced in Parliament, 1st reading		
11/07/2001	Vote in committee, 1st reading		Summary
11/07/2001	Committee report tabled for plenary, 1st reading	A5-0271/2001	
05/09/2001	Debate in Parliament		
06/09/2001	Decision by Parliament, 1st reading	T5-0442/2001	Summary
28/09/2001	Modified legislative proposal published	COM(2001)0555	Summary
06/12/2001	Council position published	12332/1/2001	Summary
13/12/2001	Committee referral announced in Parliament, 2nd reading		
21/03/2002	Vote in committee, 2nd reading		Summary
21/03/2002	Committee recommendation tabled for plenary, 2nd reading	A5-0090/2002	
09/04/2002	Debate in Parliament		
10/04/2002	Decision by Parliament, 2nd reading	T5-0162/2002	Summary
02/08/2002	Parliament's amendments rejected by Council		
12/09/2002	Formal meeting of Conciliation Committee		
07/11/2002	Final decision by Conciliation Committee		Summary
07/11/2002	Report tabled for plenary, 3rd reading	A5-0437/2002	
12/11/2002	Joint text approved by Conciliation Committee co-chairs	3664/2002	
09/12/2002	Decision by Council, 3rd reading		
17/12/2002	Debate in Parliament		
18/12/2002	Decision by Parliament, 3rd reading	T5-0619/2002	Summary
06/02/2003	Final act signed		
06/02/2003	End of procedure in Parliament		
15/02/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2001/0018(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/16396

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0271/2001	11/07/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0442/2001 OJ C 072 21.03.2002, p. 0235-0286 E	06/09/2001	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0090/2002	21/03/2002	
Text adopted by Parliament, 2nd reading		T5-0162/2002 OJ C 127 29.05.2003, p. 0161-0516 E	10/04/2002	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0437/2002	07/11/2002	
Text adopted by Parliament, 3rd reading		T5-0619/2002 OJ C 031 05.02.2004, p. 0161-0177 E	18/12/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	12332/1/2001 OJ C 110 07.05.2002, p. 0023 E	06/12/2001	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2001)0012 OJ C 154 29.05.2001, p. 0112 E	15/01/2001	Summary
Modified legislative proposal	COM(2001)0555 OJ C 025 29.01.2002, p. 0472 E	28/09/2001	Summary
Commission communication on Council's position	SEC(2001)1949	07/12/2001	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2002)0334	10/07/2002	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0519/2001 OJ C 193 10.07.2001, p. 0027	25/04/2001	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3664/2002	12/11/2002	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Directive 2003/0011 OJ L 042 15.02.2003, p. 0045-0046	Summary

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 10/07/2002 - Commission opinion on Parliament's position at 2nd reading

The Commission cannot accept the four amendments proposed by the European Parliament on its second reading. With regard to the proposed ban on octaBDE, the Commission points out that the risk assessments are still on-going. The risk assessments must be finalised, as must the evaluations on the availability of safe substitutes, before adequate measures can be proposed. The availability of safe substitutes is especially important in this case as lack of effective substitutes could lead to an increase in the number of casualties in fires. The necessary information is expected before the end of this year. On the basis of the results, the Commission will present new proposals. These should not delay the entry into force of the present Directive on pentabromodiphenylether on which all three institutions agree. Parliament also proposed adding a ban on decaBDE taking effect from 01 /01/06 at the latest, if the risk assessment does not conclude that decaBDE causes no reason for concern. This amendment would allow a total ban or no ban at all. The Commission favours a more nuanced approach which would mean that measures could take effect much earlier than 2006. The completion of the risk assessments and analyses of safe substitutes would allow the uses of concern to be identified and appropriate measures to be taken quickly. The Commission will therefore not amend its proposal.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 28/09/2001 - Modified legislative proposal

The European Commission is able to accept one of the eight amendments proposed by the European Parliament. Specifically it relates to the deletion of point 3 in the Annex. Effectively this would mean the deletion of the derogation on pentabromodiphynel ether in concentrations of less than 5% in technical grade octabromodiphenyl ether. In relation to this amendment, the Commission has accepted in principle a new Parliamentary recital that octabromodiphenyl ether may not contain pentabromodiphenyl ether in concentrations higher than 0.1%. Those amendments, which seek to extend the scope of the proposed Directive to include bans on other substances such as octabromidphenyl ether and decabromodiphenyl ether have not been accepted by the Commission. Instead it has decided to wait for the conclusions of a risk assessment report before presenting new proposal on the above mentioned substances.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 06/12/2001 - Council position

The Council has been examining the proposal since the beginning of 2001. The Council's common position is generally consistent with the Commission's amended proposal. The Council welcomed the amendment deleting the the derogation for octabromodiphenyl ether (octaBDE) which contains less than 5% pentaBDE. The Council also incorporated part of an amendment which stipulates that octaBDE containing more than 0,1% pentaBDE can no longer be allowed since the use of pentaBDE is restricted. The Council does not consider it appropriate to discuss extending the scope of the Directive to octabromodiphenyl (octaBDE) and decabromodiphenyl ether (decaBDE) before the risk assessment has been completed. The Council also rejected the amendment concerning the procedure for the evaluation and control of risks as the Council considers this amendment to be beyond the scope of the Directive. In conclusion, by incorporating the European Parliament amendments which strengthen the provisions on pentaBDE, the Council believes that it has found a balanced solution which takes account of the risk-assessment procedure on the one hand, and which guarantees a high level of human health and environmental protection on the other.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 06/09/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament voted to ban the use of a chemical that is widely used to fire-proof furniture and upholstery but has been found to harm human health and the environment. The report drafted by Mr Frédérique RIES (ELDR, B) supports the Commission's proposal to ban pentaBDE, a flame retardant that is used extensively in the manufacture of polyurethane foam but has been found by scientists to be harmful to the environment and is being detected in increasing levels in human breast milk. (Please refer to the previous text).

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 18/12/2002 - Text adopted by Parliament, 3rd reading

The European Parliament adopted a resolution approving the joint text by the Conciliation Committee. (Please refer to the document dated 08/11/02).

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 07/12/2001 - Commission communication on Council's position

The common position of the Council includes, in addition to the amendments of the European Parliament accepted by the Commission, a change motivated on technical grounds. This change would further clarify the scope of the proposed Directive. The Commission supports the common position because it corresponds exactly with its amended proposal.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 15/01/2001 - Legislative proposal

PURPOSE : to establish uniform rules on Pentabromodiphenyl ether to preserve the Internal Market. CONTENT : Pentabromodiphenyl ether (pentaBDE) is a brominated flame retardant almost exclusively used in the manufacture of flexible polyurethane foam for furniture and upholstery. It belongs to a group of ten substances, the polybrominated diphenyl ethers. The risks to the environment of PentaBDE have been assessed under Council Regulation 793/93/EEC on the evaluation and control of the risks of existing substances. The risk assessment identified a need for reducing risks of pentaBDE to the environment from production and use of polyurethane foam containing pentaBDE. In its opinion of 4 February 2000, the Scientific Committee on toxicity, ecotoxicity and the environment (CSTEE) confirmed the conclusions of the assessment of pentaBDE on the need to reduce risks to protect the environment. On the basis of the risk assessment and recommended risk reduction strategy in the framework Regulation 739 /93/EEC and taking account of the Precautionary Principle, the Commission proposes to restrict the marketing and use of pentaBDE and of articles containing pentaBDE. The proposed 24th amendment establishes uniform rules on pentaBDE to preserve the Internal Market. It also guarantees a high level of protection of health and the environment.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 06/02/2003 - Final act

PURPOSE : to establish uniform rules on Pentabromodiphenyl ether and octabromodiphenyl ether to preserve the Internal Market. COMMUNITY MEASURE : Directive 2003/11/EC of the European Parliament and of the Council amending for the 24th time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations (pentabromodiphenyl ether, octabromodiphenyl ether). CONTENT : This Directive bans the placing on the market of articles that contain penta BDE and octaBDE. The risks to the environment of pentabromodiphenyl ether (pentaBDE) and octabromo-diphenyl ether (octaBDE) have been assessed under Council Regulation 793/93/EC. The risk assessments on pentaBDE and octaBDE identified a need for reducing risks from these substances to the environment. The Scientific Committee on toxicity, ecotoxicity and the environment (CSTEE) confirmed the conclusions of these assessments of pentaBDE and octaBDE on the need to reduce risks to protect the environment. Furthermore, the CSTEE confirmed the concern about exposure of breast-fed children to pentaBDE and that the increasing levels of pentaBDE in breast milk might be the result of a use not yet identified. The Commission has already adopted Recommendations in the framework of Regulation 793/93/EC on a risk reduction strategy for pentaBDE and octaBDE providing for restrictions on marketing and use to control risks to the environment. They also recommended that any measures should take account of the concerns about infants exposed via milk. In order to protect health and the environment the placing on the market and the use of pentaBDE and octaBDE and the placing on the market of articles containing one or both of these substances is prohibited by this Directive. The presence of pentaBDE or octaBDE in concentrations higher than 0,1%

can be identified using standard analytical techniques such as GC-MS (gas chromatography-mass spectrometry. In accordance with the agreement reached by the conciliation committee, a recital is added to the Directive. This recital states that the risk assessment on decaBDE was concluded in August 2002. The assessment revealed a number of uncertainties concerning possible effects on the environment of this substance. A risk reduction strategy has therefore to be established immediately. The Commission expects the results of the risk reduction strategy not later than 30 June 2003. It will immediately assess these results and propose appropriate and strict measures to address risks identified. Restrictions approved by the Community on the marketing and use of decaBDE are to enter into force without further delay, unless the further testing provided for in the above risk assessment resolves the current uncertainties by concluding that decaBDE gives no cause for concern. DATE OF TRANSPOSITION : 15/02/2004. DATE OF APPLICATION : 15/02/2004. ENTRY INTO FORCE : 15/02/2003.

Dangerous substances: marketing and use of pentaBDE in polyurethane foam (24th amend. Directive 76/769/EEC)

2001/0018(COD) - 10/04/2002 - Text adopted by Parliament, 2nd reading

The European Parliament approved the resolution, subject to amendments, by Mr Frédérique RIES (ELDR, B) adopting the Council's common position. (Please refer to the text dated 21/03/02). In addition, Parliament requests that although the risk assessments for octaBDE and decaBDE are not yet complete, the marketing and use of these substances should be restricted, given that the current assessments have already established definite risks for human health and the environment.