DIRECTIVE 97/16/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 April 1997

amending for the 15th time Directive 76/769/EEC on restrictions on the marketing and use of certain dangerous substances and preparations

THE EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 189b of the Treaty [3],

Whereas Article 7a of the Treaty establishes an area without internal frontiers in which the free movement of goods, persons, services and capital is ensdured;

Whereas all Member States, with the exception of Austria, Finland, Greece, Italy and Luxembourg, are Contracting Parties to the Convention for the Prevention of Marine Pollution from Land-Based Sources (1974 Paris Convention); whereas the Paris Commission, the executive body of the Paris Convention, considers hexachloroethane and the substances that can be formed as a result of its use as substances which create pollution that should be eliminated in accordance with Article 4 (1) (a) of the Paris Convention; whereas the Council by a mandate adopted on 4 March 1996 authorized the Commission to negotiate a decision to phase out hexachloroethane with some exceptions for use in the non-ferrous metal industries and in particular in non-integrated foundries casting aluminium and for certain magnesium alloys; whereas as a result of the negotiations held at the meeting of the Oslo and Paris Commissions in Oslo in June 1996 Parcom Decision 96/1 on the phasing out of the use of hexachloroethane in the non-ferrous metal industry was adopted, replacing existing Parcom Decisions 92/4 and 93/1 on the same matter; whereas Parcom Decision 96/1 provides for a review of the need for the exceptions to the ban on the use of hexachloroethane in 1998;

Whereas the limits imposed on Member States as regards the placing on the market of hexachloroethane for use in the non-ferrous metal industries directly affect the functioning of the internal market; whereas it is therefore necessary to approximate the laws of the Member States in this field and consequently to amend Annex I to Directive 76/769/EEC [4];

Whereas in view of the scope and effects of the proposed action, the Community measures envisaged by this Directive are not merely necessary, but vital for the attainment of the stated objectives; whereas these objectives cannot be achieved by Member States individually; whereas furthermore their attainment at Community level is already provided for by Directive 76/769/EEC,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC shall be amended as set out in the Annex hereto.

Article 2

Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1997 at the latest. They shall immediately inform the Commission thereof.

They shall apply these provisions from 1 January 1998.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

(1) OJ No C 382, 31. 12. 1994, p. 35 and OJ No C 12, 17. 1. 1996, p. 12.
(2) OJ No C 236, 11. 9. 1995, p. 12.
(3) Opinion of the European Parliament of 20 September 1995 (OJ No C 269, 16. 10. 1995, p. 63), Council common position of 26 November 1996 (OJ No C 41, 10. 2. 1997, p. 1) and Decision of the European Parliament of 16 January 1997 (OJ No C 33, 3. 2. 1997) and Council Decision of 13 March 1997.

(4) OJ No L 262, 27. 9. 1976, p. 201. Directive as last amended by Directive 94/60/EC (OJ No L 365, 31. 12. 1994, p. 1).

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities.*

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10 April 1997.

For the European Parliament	*For the Council*
The President	*The President*
J.M. GIL-ROBLES	A. VAN DOK VAN WEELE

ANNEX

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

'xx Hexachloroethane CAS No 67-72-1 EINECS No 2006664	May not be used in the manufacturing or processing of non-ferrous metals By way of derogation, Member States may allow on their territories the use of hexachloroethane (HCE): — in non-integrated aluminium foundries producing specialized castings for applications requiring high quality and high safety standards and where consumption is less than 1,5 kg of HCE per day on average. In view of the development in knowledge and techniques in the field of substitute products, the Commission will carry out, in agreement with the Member States and within the Parcom framework, a review of this derogation before 31 December 1998, — for grain refining in the production of the magnesium alloys AZ81, AZ91 and AZ92. In view of the development in knowledge and techniques in the field of substitute products, the Commission will carry out, in agreeement with the Member States and within the Parcom framework, a review of this derogation before 31 December 1998.'