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Report

drawn up on behalf of the Committee on the Environment,
Public Health and Consumer Protection

on the proposal from the Commission of the European
Communities to the Council for a directive relating
to restrictions on the marketing and use of certain
dangerous substances and preparations (Second PCB/PCT
Directive) (Doc. 2-803/84 - COM(84) 513 final)

Rapporteur: Mr G. SCHMID

PE 94.935/fin.

By letter of 18 October 1984, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Articles 100 and 235 of the EEC Treaty, on the proposal for a directive relating to restrictions on the marketing and use of certain dangerous substances and preparations (Second PCB/PCT Directive).

On 23 October 1984, the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible.

At its meeting of 30 October 1984, the Committee on the Environment, Public Health and Consumer Protection appointed Mr SCHMID rapporteur.

The committee considered the Commission's proposal at its meeting of 20 December 1984 and the draft report at its meetings of 30 January 1985 and 27 February 1985.

At the last meeting, the committee decided, with one vote against, to recommend to Parliament that it approve the Commission's proposal, subject to the following amendments.

The committee also reserves the right to propose to Parliament that Rule 36(2) of the Rules of Procedure be applied.

The committee then adopted the motion for a resolution as a whole unanimously with one abstention.

The following took part in the vote:

Mrs WEBER, chairman; Mrs SCHLEICHER, Mrs BLOCH VON BLOTTNITZ and Mr COLLINS, vice-chairmen; Mr SCHMID, rapporteur; Mr AVGERINOS (deputizing for Mr TOGNOLI), Mrs BANOTTI, Mr BOMBARD, Mr ELLIOTT (deputizing for Mr VITTINGHOFF), Mr HUGHES, Mr VAN DER LEK, Mrs LENTZ-CORNETTE, Mr MUNTINGH, Mr ROELANTS DU VIVIER, Ms TONGUE and Mr VERNIER.

The report was tabled on 28 February 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution, together with explanatory statement:

Proposal from the Commission of the European Communities to the Council for a directive relating to restrictions on the marketing and use of certain dangerous substances and preparations (Second PCB/PCT Directive)

Text proposed by the Commission
of the European Communities

Amendments tabled by the Committee
on the Environment, Public Health
and Consumer Protection

Preamble, 1st recital

Whereas polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) are suspected of being carcinogenic and otherwise injurious to health; whereas Council Directive 76/769/EEC(1), as last amended by Directive 83/748/EEC(2), provides for extensive restrictions on the marketing and use of these substances;

Whereas polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) cause severe damage to health and are very probably carcinogenic;
(remainder unchanged)

Preamble, 2nd and 3rd recitals unchanged

Preamble, 4th recital

Whereas it has also been ascertained that, if fire occurs in the immediate vicinity of transformers in which PCBs are used as the cooling medium, the release of polychlorinated dibenzodioxin (PCDD), a toxic substance chemically akin to the 'Seveso dioxin' TCDD, is a distinct possibility;

Whereas it has also been ascertained that, if fire occurs in the immediate vicinity of transformers in which PCBs are used as the cooling medium, the release of highly toxic polychlorinated dibenzodioxins (PCDD), including 2, 3, 7, 8 - TCDD, the 'Seveso dioxin', is a distinct possibility;

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

(2) OJ No. L 263, 24.9.1983, p. 33

Preamble, 5th recital unchanged

Preamble, 6th recital

Add the words:

Whereas this must also apply to the trade in used stocks and exports to non-Community countries; whereas the value of 0.1% by weight for preparations can and must be lowered, to further reduce uncontrolled release into the environment;

Preamble, 7th recital

Whereas the disposal of PCBs and PCTs has to be carried out in installations specially authorized for this purpose and in accordance with the provisions of Council Directive 76/403/EEC; whereas, since there are but few such disposal installations in existence and their capacity is limited, the use of PCBs and PCTs in existing plant and equipment should be authorized until the latter reach the end of their service life; whereas the disposal of PCBs and PCTs within a period of a few years would create more problems and entail greater dangers to humans and the environment than would their continued use in closed systems;

Whereas the disposal of PCBs and PCTs has to be carried out in installations specially authorized for this purpose and in accordance with the provisions of Council Directive 76/403/EEC ; whereas, since there are but few such disposal installations in existence and their capacity is limited, for the time being there will be no general prohibition on the use of PCBs and PCTs, but there will be restrictions on their use in transformers;

Preamble, 8th recital

Whereas the use of PCBs and PCTs as primary materials and intermediate products for processing into other products not prohibited by the Directive is still permissible provided that humans and the environment are not thereby endangered;

Whereas the use of PCBs and PCTs as primary materials and intermediate products for processing into other products not prohibited by the Directive shall be prohibited;

Preamble, 9th recital

Whereas the labelling of PCBs and PCTs is governed by Council Directive 67/548/EEC, as last amended by Commission Directive 84/.../EEC; whereas, however, it is necessary that, in addition, Member States should be entitled to require that instructions concerning disposal appear on the label, and whereas those instructions may differ according to the local situation;

Whereas the labelling of PCBs and PCTs is governed by Council Directive 67/548/EEC, as last amended by Commission Directive 84/.../EEC; whereas, however, it is necessary that, in addition, Member States should require that instructions concerning disposal appear on the label, and whereas those instructions may differ according to the local situation;

Preamble, 10th and 11th recitals unchanged

Article 1

1. The placing on the market of polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) in the plant, equipment and fluids referred to in points 1 to 5 in the right-hand column of the Annex to Directive 76/769/EEC shall be permitted only until 30 June 1986.

1. The placing on the market of polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) in the plant, equipment and fluids referred to in points 1 to 5 in the right-hand column of the Annex to Directive 76/769/EEC and of preparations containing more than 0.005% PCBs or PCTs by weight shall be permitted only until 31 December 1985.

Article 2

The following words are hereby added to point 6 in the right-hand column of Annex I to Directive 76/769/EEC: 'until 31 December 1989 at the latest, provided that man and the environment are not thereby endangered'.

1. The following words are hereby added to point 6 in the right-hand column of Annex I to Directive 76/769/EEC: 'until 31 December 1985 at the latest'.

2. The use of PCBs in the cases mentioned in Annex I shall be permitted only under the conditions stated

3. The Member States may adopt stricter prohibitions on use.

Article 3

Without prejudice to the provisions of other directives relating to the labelling of dangerous substances and preparations, Member States may also require that instructions concerning the disposal of PCBs and PCTs also appear on the label. These instructions must be so inscribed that they can be read horizontally when the object containing PCBs or PCTs is set down or secured in the normal way. The inscription must stand out clearly from the background.

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

Without prejudice to the provisions of other directives relating to the labelling of dangerous substances and preparations, it shall be required that instructions concerning the disposal of PCBs and PCTs also appear on the label. These instructions must be so inscribed that they can be read horizontally when the object containing PCBs or PCTs is set down or secured in the normal way. The inscription must stand out clearly from the background.

Unchanged

Articles 4 and 5 unchanged

Annex I (right-hand column)(1)

Conditions of restriction

May not be used except for the following categories:

1. Closed-system electrical equipment: transformers, resistors and inductors;

Conditions of restriction

The use of PCBs in transformers shall be permitted only:

1. - in the case of open-installation transformers (i.e. not in enclosed fireproof spaces), in department stores, hospitals, old people's homes, schools, premises used for meetings, blocks of flats and business or factory premises where there is a risk of fire, until 31 December 1988;

- in the case of transformers installed in completely enclosed fireproof spaces in the premises mentioned in the first subparagraph, until 31 December 1990;

- in all other cases, and in resistors and inductors, until 31 December 1995.

Points 2 - 5 unchanged

6. Primary and intermediate products for further processing into other products which are not prohibited under this Directive.

6. Primary and intermediate products for further processing into other products which are not prohibited under this Directive, until 31 December 1985 at the latest.

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

The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

A

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive relating to restrictions on the marketing and use of certain dangerous substances and preparations (Second PCB/PCT Directive)

The European Parliament,

- having regard to the proposal from the Commission to the Council(1),
 - having been consulted by the Council pursuant to Articles 100 and 235 of the EEC Treaty (Doc. 2-803/84),
 - having regard to the Council Directive of 27 July 1976 (76/769/EEC)(2),
 - having regard to the motions for resolutions tabled pursuant to Rule 47 by Mr MUNTINGH (Doc. 1-255/82) and Mrs WEBER, Mrs SEIBEL-EMMERLING and Mr SCHMID (Doc. 1-972/83),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 2-1777/84),
 - having regard to the result of the vote on the Commission's proposal,
1. Considers the Commission's proposal for a Second PCB directive to be inadequate and therefore proposes amendments thereto;

(1) OJ No. C 315, 26.11.1984, p. 3

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

2. Expects the Commission to adopt these amendments and the Council to act without delay;
3. Notes that despite the Council Directive of 6 April 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls, disposal capacity in the Community is inadequate(1);
4. Believes, therefore, that the precipitate withdrawal of existing articles containing PCB/PCT would over-extend suitable disposal facilities and create more dangers than it removed;
5. Calls, therefore, for the amendment of this directive, so that a binding schedule for the safe disposal of all plant and equipment falling within the scope of a Second PCB/PCT Directive may be laid down on the basis of an evaluation of the capacities of the existing disposal facilities;
6. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

(1) 76/403/EEC (OJ No. L 108, 26.4.1976, p. 41)

EXPLANATORY STATEMENT1. Introduction

Since 1976, with a few exceptions, the marketing and use of polychlorinated biphenyls (PCB) and polychlorinated terphenyls (PCT) has been prohibited (Directive 76/769/EEC). Their use remains permitted:

- in preparations with a PCB or PCT content lower than 0.1% by weight,
- in closed systems (transformers, condensers, heat transfer installations, hydraulic equipment in mines)
- as primary and intermediate products for further processing into other products.

The third amendment to the Directive (82/828/EEC)(1) also permits until 31 December 1984 the use of re-usable thermoplastic compounds to hold parts for precision machining in premises notified for the purpose.

2. Danger to the environment and health

PCBs and PCTs are very persistent. They accumulate in animals and humans via the food chain. High PCB residues in fatty tissue and eggs are endangering a number of bird species (osprey, white-tailed eagle, peregrine falcon, and barn owl). Marine mammals are threatened (e.g. the seals living on the tidal mud-flats off the Dutch coast). Certain diseases of fish can also be ascribed to these compounds.

In humans, damage to the liver and carcinogenic effects are suspected. The PCB content in mothers' milk is causing concern. Employees in establishments manufacturing, processing or disposing of PCBs, and miners, are especially at risk.

(1) OJ No. L 350, 10.12.1982, p. 34

3. Potential disasters involving PCB-filled transformers

Large transformers have to be cooled. Mineral oil can be used, but it is combustible. On safety grounds, transformers were therefore filled with non-combustible coolants, consisting mainly of polychlorinated biphenyls. PCB transformers have been installed in areas where there are high fire risks and/or high safety requirements (historic city centres, department stores, hospitals, old people's homes, etc.). The transformer itself is not a primary fire source, but if a fire in the vicinity exposes it to temperatures exceeding 300°C, the PCBs produce by pyrolysis highly toxic polychlorodibenzofuranes (PCDFs), including 2, 3, 7, 8 - tetrachloro-dibenzo-p-dioxin, which we know as the Seveso poison, of which 10 mg, an amount that could be held on the tip of a knife, will contaminate 1 sq.km. In fires, PCB transformers therefore release ultra-toxic substances, putting firemen at acute risk and in certain circumstances contaminating wide areas. The fire brigades are therefore urging that PCB transformers be replaced by silicon or resin-cooled equipment.

4. The need to ban the marketing of PCBs/PCTs and preparations containing them

The exemptions under Directive 76/769/EEC apply to 'closed' systems. Even these systems are helping contaminate the environment, via leakages and the illicit dumping of PCB fluids along with other used oils. A high proportion of the PCBs used in hydraulic equipment in mines is released through ruptured hoses and overheating. PCB-filled transformers also have their own disaster potential.

There are no economic or technical grounds for the further use of PCBs and PCTs. At present, the limited capacity for the disposal of chlorinated phenyls by high temperature incineration stands in the way of an immediate ban on their use and subsequent systematic disposal.

A ban on marketing will at least prevent a further increase in the quantities of PCBs and PCTs and represent a first step towards disposal, if it is also applied to the trade in used equipment. Our responsibilities towards the Third World, which are based on the special relationship between the Community and many of these countries, require a ban on marketing to be accompanied by a ban on exports.

According to Directive 76/769/EEC, preparations with a PCB or PCT content lower than 0.1% by weight are not covered by the restrictions on use. The persistent and universal pollution of the environment by these substances proves that this threshold is too high. For a preparation to qualify as PCB-free in the United States, it must contain no more than 0.005% by weight. The Community should adopt this technically feasible standard for its ban on marketing.

5. Need for a ban on the use of PCB-filled transformers in high-risk areas

The particular risk represented by PCB transformers in the event of fire calls for a progressive ban on their use. Instead, Article 1(2) of the proposal for a directive prohibits even national arrangements, although, from the point of view of the common market, after a ban on marketing this would be unnecessary (Parkinson strikes again!). Article 1(2) must therefore be deleted. The danger to the public and concern for the life and health of firemen require the Community to set deadlines and conditions for the replacement of PCB transformers.

6. Criteria for the continued operation of old equipment

In Article 3 of the proposal for a directive, the Commission allows the Member States to require that instructions concerning the disposal of PCBs and PCTs appear on the label. After a general ban on marketing there would be no need, in the logic of the common market, for such permission, as technical barriers to trade cannot occur. Article 3 makes sense only if it sets out obligations. By its own account, the Commission is currently considering whether further conditions should be attached to the continued use of PCBs. Article 2(2) in the new version is therefore worded so that further conditions may be imposed simply by amending Annex I.

7. Deadlines

In view of the urgency of the problem, the deadlines mentioned in the Commission's proposal must be brought forward.

8. Protecting the science of chemistry from the attentions of the Commission

In the preamble, the Commission states that in fires, polychlorinated dibenzodioxin (PCDD), a toxic substance chemically akin to the 'Seveso dioxin' (TCDD), is released. We would point out that:

1. polychlorinated dibenzodioxins (PCDDs) are a class of substances comprising 75 isomers;
2. tetrachlorodibenzodioxins (TCDDs) are a subgroup comprising 22 isomers;
3. 2, 3, 7, 8-TCDD is the 'Seveso dioxin'. In fires involving transformers, it and other PCDDs are released. The problem is therefore not 'a toxic substance chemically akin' but the highly toxic 2, 3, 7, 8-TCDD itself.

