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Report

drawn up on behalf of the Committee on Public Health and the Environment

on the proposal from the Commission of the European Communities to the Council (Doc. 510/74) for a directive on the collection, regeneration and/or destruction of polychlorinated biphenyls (PCB's)

Rapporteur: Mrs E. ORTH

PE 40.005/fin.



By letter of 24 February 1975 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the collection, regeneration and/or destruction of polychlorinated biphenyls (PCB's).

The President of the European Parliament referred this proposal to the Committee on Public Health and the Environment as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion.

On 21 April 1975 the Committee on Public Health and the Environment appointed Mrs Orth rapporteur.

It considered this proposal at its meeting of 21 April and 26 May 1975 and unanimously adopted the motion for a resolution and the explanatory statement on 26 May 1975

Present: Mr Jakobsen, vice-chairman and acting chairman; Mrs Orth, rapporteur; Mr Adams, Mr Antoniozzi, Lord Bethell, Mr Brégégère, Mr Martens, Mr Meintz, Mr W. Müller, Mr Ney, Mr Noè, Mr Petersen, Mr Premoli, Mr Spicer and Mr Springorum.

The opinion of the Committee on Economic and Monetary Affairs is attached.

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A

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

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the collection, regeneration and/or destruction of polychlorinated biphenyls (PCB's)

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 510/74),
 - having regard to the report of the Committee on Public Health and the Environment and the opinion of the Committee on Economic and Monetary Affairs (Doc. 117/75),
1. Considers the Commission's proposal for a directive a useful and necessary instrument for achieving better, more effective protection of public health and the environment;
 2. Notes with satisfaction that the present proposal constitutes one of the urgent measures to be taken under the European Community's programme of action on the environment;
 3. Notes with satisfaction that the European Community, in this directive, follows the decision of the Council of the OECD on the protection of the environment by control of polychlorinated biphenyls;
 4. Urges the Commission to ensure that the provisions to be established by the Member States for bodies responsible for PCB treatment, should not lead to reduced efficiency on the part of such enterprises or to distortion of competition conditions;
 5. Agrees with the proposal that part of the treatment costs should be borne by the person or enterprise wishing to dispose of PCB's, since this complies with the 'polluter pays' principle;

¹ OJ No. C 49, 1 March 1975, p.1

6. Urges the Commission to ensure that the deadline of 24 months for the introduction of provisions under this directive commencing on 1 October 1975, is strictly observed to avoid further delay in their enforcement;
7. Requests the Commission, pursuant to Article 149, paragraph 2, of the EEC Treaty to make the following amendments to its proposal;
8. Requests its appropriate committee to check carefully whether the Commission of the European Communities adopts the European Parliament's amendments to its proposal and, if necessary, to report on this matter to Parliament.

Council Directive on the collection, regeneration
and/or destruction of polychlorinated biphenyls (PCB's)

Preamble and recitals unchanged

Articles 1 to 6 unchanged

Article 7

Every three years each Member State shall compile a report on the position as to PCB treatment in its territory and shall forward it to the Commission.

The Commission shall forward it to the other Member States.

Article 8

The Member States shall bring into force the measures necessary to comply with this Directive within twenty-four months of its notification and shall forthwith inform the Commission thereof.

Article 7

Every three years each Member State shall compile a report on the position as to PCB treatment in its territory and shall forward it to the Commission.

The Commission shall forward to the other Member States, the Council and the European Parliament a report on the application of the directive in the various Member States.

Article 8

The Member States shall bring into force the measures necessary to comply with this Directive within twenty-four months of its notification, 1 October 1975 being established as the latest date for such notification, and shall forthwith inform the Commission thereof.

Articles 9 and 10 unchanged

¹For full text see OJ No. C 49, 1 March 1975, p.1

EXPLANATORY STATEMENTI. General observations

1. The President of the Council of the European Communities requested, by letter of 24 February 1975, the opinion of the European Parliament on the proposal for a directive on the collection, regeneration and/or destruction of PCBs.

2. This proposed directive may be seen as a supplement to the Commission's proposal for a directive on the restriction of the sale and use of certain dangerous substances and preparations (Doc. 238/74).

So far the PCB's are the only substances which come under the latter directive.

Under this earlier proposal the use of PCB's would be restricted to 'closed systems' i.e. a number of applications in which the PCB's are recoverable.

3. In Mr Walkhoff's report on this earlier proposal (Doc. 394/74), which was unanimously adopted by the European Parliament on 21 February 1975, the Committee on Public Health and the Environment noted with satisfaction that the Commission of the European Communities had, by this proposed directive, met a demand formulated in the programme of action on the environment.

It also complied in part with a decision of the Council of the OECD of 13 February 1973 on the protection of the environment by control of polychlorinated biphenyls.

The present proposal goes one step further and aims at PCB treatment control to ensure that all necessary measures have been taken to restrict the dispersal of PCB's into the environment.

II. Contents of the directive

4. The Commission's proposal on the restriction of the sale and use of certain dangerous substances and preparations covered the application of PCB's in 'closed systems' and this directive now aims to cover the conditions for collection, regeneration and/or destruction of PCB's and thereby supplement control of these substances in order to prevent their dispersal into the environment.

5. There are no laws on the subject covered here in the various Member States. However, the French Government has forwarded to the Commission a preliminary draft on 'Conditions of use of polychlorinated biphenyls' under the agreement of 5 March 1973 on information for the Commission and for the Member States with a view to possible harmonization throughout the Communities of urgent measures concerning the protection of the environment (OJ No. C 9, 15 March 1973).

6. The proposed directive contains ten articles:

- Article 1 defines the term PCB;
- Article 2 defines the general principles for preventing dispersal of PCB's;
- Article 3 aims, in the first paragraph, at the creation of appropriate collection systems for used products and, in the second paragraph, covers the application of PCB's in the 'closed systems' mentioned above;
- Article 4 makes it incumbent on Member States to set up competent bodies for the treatment of PCB's;
- Article 5 obliges persons wishing to dispose of PCB's to apply to the above bodies and points out that they should share the cost of treatment, in compliance with the 'polluter pays' principle;
- Under Article 6 Member States have to lay down provisions for persons owning and processing PCB's;
- Article 7 provides that every Member State should compile a report every three years on the position as to PCB treatment;
- Articles 8, 9 and 10 are formal articles.

III. Discussion

7. The Committee on Public Health and the Environment is in complete agreement with this proposal for a directive since it represents a genuine contribution to reducing pollution of the environment and improving health protection.

The enforcement of this directive would stop the dispersal of PCB's which are known to be very toxic and not easily degradable chemical compounds.

8. The Commission's proposal does not give any precise provisions on the bodies and institutions to be responsible for collecting, regenerating and/or destroying the polychlorinated biphenyls and this allows Member States to make arrangements according to their own local or national situations.

9. The opinion of the Committee on Economic and Monetary Affairs refers to the fact that allowing Member States such latitude makes it possible to give a government body or enterprise a monopoly position and this would not always be in the interests of efficiency (Article 6). This disparity in efficiency would then affect the competition capacity of those enterprises which have to use the services of the firms charged with collecting, regenerating and/or destroying PCB's, and would be accompanied by a distortion of competition conditions.

10. The Committee on Public Health and the Environment fully subscribes to this criticism by the committee asked for its opinion since reduced efficiency in the operation of the collection system would not only have economic repercussions but might also produce risks to human health and the environment.

It therefore urges the Commission to check that this does not happen.

11. Article 5(2) states that anyone wishing to dispose of PCB's shall pay that portion of the treatment costs which the PCB treatment bodies or undertakings are unable to recoup by utilization or disposal of the waste PCB's.

This application of the 'polluter pays' principle is welcomed by your committee.

12. Article 7 obliges the Member States to present a report every three years on the position as to treatment of PCB's.

Your committee agrees with this obligation but does ask that a summary report on the application of the directive in the Member States should be forwarded to the Member States, to the Council and to the European Parliament.

The Commission is therefore requested to amend Article 7 correspondingly.

13. Within 24 months after notification of this directive the Member States should introduce the necessary provisions to comply with the contents of the directive (Article 8).

This deadline of 24 months is necessary to allow Member States to take all steps to ensure the proper functioning of this directive.

However, the importance of the directive is too great to allow notification to be delayed and your committee therefore proposes that 1 October 1975 should be fixed as the latest possible date for such notification.

Here, too, the Commission is requested to amend the article concerned accordingly.

IV. Decision

14. Your committee agrees with this proposed directive which follows up the 'action programme on the environment' and a decision of the OECD Council and aims to counteract the dispersal of dangerous PCB's into the environment.

At the same time it hopes that the provisions of this directive will be enforced as soon as possible.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Letter from the chairman of the committee to Mr DELLA BRIOTTA, chairman of the Committee on Public Health and the Environment

Luxembourg, 28 April 1975

Dear Mr Chairman,

On 25 April, the Committee on Economic and Monetary Affairs considered the proposal from the Commission of the European Communities to the Council for a directive on the collection, regeneration and/or destruction of polychlorinated biphenyls (PCB's) (Doc. 510/74).

In doing so, the committee devoted most of its attention to Articles 4 and 5 of the proposal. Article 4 leaves to Member States the decision to set up or appoint competent bodies or enterprises to undertake the collection, regeneration and/or destruction of PCB's. This enables Member States to make a public body responsible for this operation, to accord a monopoly to an undertaking, to grant licences to more than one undertaking, etc. The committee considers that the appointment of competent bodies or enterprises should be made above all on the basis of their efficiency. The competitive position of the enterprises having to have recourse to the bodies or enterprises responsible for the collection, regeneration and/or destruction of PCB's is also affected by the efficiency of those bodies or undertakings, since, under Article 5, the 'polluter pays' principle is applicable. The question of efficiency would be problematic if a monopoly position were granted, whether to a private enterprise or to a public body. The best guarantee of efficiency would be to allow competition to have free play in this sector of activity. Furthermore, the granting of a monopoly would, by reason of divergent costs, lead to a distortion of the conditions of competition within the Common Market if Member States differed in their choice of bodies or enterprises responsible. If competition is authorized, there must nevertheless be extremely strict supervision to ensure that the treatment of PCB's is carried out in a suitable manner and with suitable equipment.

With the above reservations, the Committee on Economic and Monetary Affairs unanimously approves the Commission's proposal.

I would ask you to consider this letter as an opinion, following the referral of 10 March 1975.

Yours sincerely,

F.E. LEENHARDT

Present: Mr Cifarelli, Mr Delmotte, Mr Dykes, Mr Lange, Mr Leenhardt,
Mr Normanton, Mr Notenboom, Mr Scholten, Mr Schwörer, Mr Suck.

