

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 373 final - SYN 161

Brussels, 22 October 1991

Amended proposal for a

COUNCIL DIRECTIVE

on the disposal of polychlorinated biphenyls and
polychlorinated terphenyls

(presented by the Commission pursuant to Article 149(3)
of the EEC-Treaty)

Explanatory Memorandum

1. The Commission presents herewith on the basis of Article 149(3) of the EEC Treaty an amended proposal for a Council Directive on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (COM(88)559 final - SYN 161 - OJ No C 319, p. 57). The Commission sent its initial proposal to the Council on 21 November 1988. The aim of the proposal is to reduce the risks which PCBs present to human health and the environment by controlling the management of used PCBs better and improving the conditions of their disposal and replacement.

The amended proposal takes account of several amendments adopted by the European Parliament on 17 May 1990 (OJ C 149, 18.6.1990, pp. 150-159) and 12 December 1990 (EP document 147.263).

2. The Commission was able to accept only 10 of the 42 amendments adopted by Parliament on 17 May 1990. The rapporteur, Mr Schmidt, asked for the report to be referred back to the Committee responsible (pursuant to Rule 40(3) of Parliament's Rules of Procedure) in order to seek a compromise with the Commission.
3. Detailed discussions between the rapporteur and the Commission departments brought the two positions much closer: differences of substance and questions of drafting were resolved.

The Commission accepted the legal basis proposed by Parliament (Articles 100a and 113), since it also accepted the prohibition of exports of PCBs to third countries and imports into the Community of PCBs from third countries with adequate disposal facilities. Indeed, the aim of the Directive would not be attained in full if exports of

PCBs from the Community remained authorized. Not prohibiting exports of PCBs would be tantamount to opening the door to their uncontrolled and possibly improper disposal or their uncontrolled dumping in third countries and clandestine dumping at sea.

The problem of the upper limit of the PCB content was also resolved. Parliament agreed to it remaining at 50 ppm, as the Commission agreed to reduce it to 20 ppm in the sole case of oils and mixtures containing PCBs intended for incineration. It is the incineration of liquids with a PCB concentration of 50 ppm that can be damaging, on account of the products of the oxidation of PCBs.

Parliament placed great stress on the need for the prohibition of the mixing of waste containing PCBs with other substances or waste to apply also to disposal undertakings, thus making it possible to achieve the aim of systematic disposal in full and preventing these undertakings also from reducing the concentration of PCBs by mixing them and then placing them on the market. The Commission pointed out that, depending on the disposal technique used and their disposal capacity, disposal undertakings are sometimes obliged to mix PCBs with other waste or to transfer certain quantities of PCBs to other disposal undertakings for disposal. It was accordingly agreed to prohibit disposal undertakings from marketing mixtures with a concentration higher than 1 ppm, except where such mixtures are intended for another disposal undertaking.

The problem of incineration at sea was also resolved, as the Commission accepted Parliament's proposal of prohibiting this method of disposal forthwith. It is impossible to monitor whether or not disposal at sea is done in accordance with the rules. In any case, it is a highly unsatisfactory technique.

Parliament placed great stress on very strict control of disposal undertakings. Several amendments were made to Article 6 concerning them on the basis of the arguments set out below. It will be possible to monitor compliance with the rules only if PCBs are disposed of exclusively in approved installations by undertakings which have obtained a special licence. Such licences should be granted only after the reliability and technical competence of the installation operator have been checked. Strict inspections of such undertakings must accordingly be introduced.

Since these installations are potentially dangerous, harmonization of the conditions of competition on the internal market entails harmonizing not only the safety standards and control methods but also the liability of the operator. Insurance of the operator's liability should be compulsory.

It is clear that the systematic disposal of PCBs requires the prior establishment of an inventory of the quantities of PCB in existence. Parliament added that in order to be able to carry out effective supervision of the inventory system it is necessary to monitor quantities in storage until they are disposed of, and to require evidence of disposal.

The Commission also accepted certain specifications for the operation of disposal undertakings and an emission limit for disposal installations.

4. The Commission was unable to accept the following five of Parliament's amendments:

Parliament asked for the prohibition of transfrontier movements of PCBs within the Community, with the possibility of derogations where a Member State is not able to dispose of PCBs properly. The Commission did not accept this amendment, which is contrary to the principle of the establishment of a single market in an area without internal frontiers. In future, the movement of toxic and dangerous waste will be controlled by the Regulation on the supervision and control of shipments of waste, currently before the Council.¹

Parliament proposed a reference method for the rapid determination of PCB content. The Commission turned this down, because it wants to use the method currently being developed by the Joint Research Centre (2 amendments).

Parliament wanted the limit values for emissions in dioxin and furan equivalent (toxic substances generated by the partial combustion of PCBs) to be applied to existing disposal installations from 1993. In the Commission's opinion this would allow insufficient time for the planning and construction of flue-gas treatment installations, and it accordingly proposes 1995. It is, moreover, drawing up a proposal concerning such installations.

1 COM(90)415 final, OJ C ...

Amended proposal for a Council Directive
on the disposal of polychlorinated biphenyls and
polychlorinated terphenyls

(presented by the Commission pursuant to Article 149(3)
of the EEC-Treaty)

ORIGINAL TEXT

AMENDED TEXT

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Economic Community and in particular Articles 100a and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

In cooperation with the European Parliament,

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

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

Whereas divergences between the laws of the Member States on the disposal of PCBs may lead to distortions of competition and, as a result, have a direct impact on the establishment and functioning of the internal market; whereas it is hence necessary to approximate laws in this field;

Whereas divergences between the laws of the Member States on the disposal of PCBs may lead to distortions of competition and, as a result, have a direct impact on the establishment and functioning of the internal market; whereas it is hence necessary to approximate laws in this field;

Whereas Council Directive 76/403/EEC of 6 April 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls¹ constituted a preliminary approximation of the laws of the Member States in this field; whereas these rules have not proved sufficient; whereas the state of the art has evolved to a point where disposal conditions can be improved and a high level of environmental protection can be taken as a basis; whereas that Directive should therefore be replaced by a new Directive;

Whereas Council Directive 76/403/EEC of 6 April 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls¹ constituted a preliminary approximation of the laws of the Member States in this field; whereas these rules have not proved sufficient; whereas the state of the art has evolved to a point where disposal conditions can be improved and a high level of environmental protection can be taken as a basis; whereas that Directive should therefore be replaced by a new Directive;

Whereas the safe disposal of unavoidable waste is one of the objectives of Community waste management policy as set out in the second action programme on the environment and confirmed in the fourth programme;²

Whereas the safe disposal of unavoidable waste is one of the objectives of Community waste management policy as set out in the second action programme on the environment and confirmed in the fourth programme;²

1 OJ No L 108, 26.4.1976, p. 41.

2 OJ No C 328, 7.12.1987, p. 1.

1 OJ No L 108, 26.4.1976, p. 41.

2 OJ No C 328, 7.12.1987, p. 1.

Whereas Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations,³ as last amended by Council Directive 85/610/EEC,⁴ underlines the need for a periodic review of the whole problem with a view to moving gradually towards the complete removal of PCBs and PCTs;

Whereas Council Directive 75/442/EEC of 15 July 1975 on waste,⁵ as amended by Directive ..., concerns the disposal of waste in general; whereas this Directive contains specific Community rules and can be regarded as a special Directive within the meaning of Directive 75/442/EEC;

Whereas Council Directive 75/439/EEC of 16 July 1975 on the disposal of waste oils,⁶ as amended by Directive 87/101/EEC,⁷ lays down 50 ppm as the maximum limit for the PCB or PCT content of waste oils and PCBs must hence be defined in the light of that level irrespective of the mixture concerned;

Whereas the marketing of PCBs is now prohibited and whereas substitutes are commercially available; whereas regeneration should consequently be prohibited;

Whereas Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations,³ as last amended by Council Directive 85/610/EEC,⁴ underlines the need for a periodic review of the whole problem with a view to moving gradually towards the complete removal of PCBs and PCTs;

Whereas Council Directive 75/442/EEC of 15 July 1975 on waste,⁵ as amended by Directive 91/156/EEC,⁶ concerns the disposal of waste in general; whereas this Directive contains specific Community rules and can be regarded as a special Directive within the meaning of Directive 75/442/EEC;

Whereas Council Directive 75/439/EEC of 16 July 1975 on the disposal of waste oils,⁷ as amended by Directive 87/101/EEC,⁸ lays down 50 ppm as the maximum limit for the PCB or PCT content of waste oils; whereas, in view of technical progress, that limit should be reduced in the case of mixtures intended for incineration, including waste oils, to 20 ppm;

Whereas, in the absence of sufficient information to challenge it, this limit should be regarded as a satisfactory technical basis, subject to review in the light of new studies;

Whereas the marketing of PCBs is now prohibited; whereas substitutes are commercially available; whereas regeneration should consequently be prohibited;

Whereas the mixing of waste containing PCBs with other waste or substances and the marketing by disposal undertakings of mixtures containing more than 1 ppm of PCBs should be prohibited in order to prevent them being withheld from disposal;

Whereas incineration at sea must be stopped; whereas to that end sufficient disposal capacities must be provided within the Community;

Whereas to avoid improper disposal and the dispersion of PCBs and waste containing PCBs outside the Community, exports thereof to third countries and imports thereof from third countries with adequate disposal installations should be prohibited;

3 OJ No L 262, 27.9.1976, p. 201.

4 OJ No L 375, 31.12.1985, p. 1.

5 OJ No L 194, 25.7.1975, p. 39.

6 OJ No L 194, 25.7.1975, p. 23.

7 OJ No L 42, 12.2.1987, p. 43.

3 OJ No L 262, 27.9.1976, p. 201.

4 OJ No L 375, 31.12.1985, p. 1.

5 OJ No L 194, 25.7.1975, p. 39.

6 OJ No L 78, 26.3.1991, p. 32.

7 OJ No L 194, 25.7.1975, p. 23.

8 OJ No L 42, 12.2.1987, p. 43.

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Whereas research into other methods of disposing of PCBs and PCTs should be financed, including processes involving bacterial biodegradation and pretreatment of PCBs to extract chlorine;

Whereas PCBs are widely dispersed in the environment and they are known to have harmful effects on human health and the environment and whereas it is consequently necessary to prohibit any uncontrolled operation involving PCBs;

Whereas PCBs should be disposed of in a manner which ensures that they are prevented as far as possible from being dispersed in the environment and whereas it is necessary to lay down minimum conditions under which licences are granted to firms which carry out their disposal;

Whereas the number of PCB disposal plants is small and their capacity limited and whereas consequently disposal programmes for used PCBs must be drawn up to ensure proper planning of PCB disposal;

Whereas it is essential to know what quantities of PCBs exist in order to be able to match disposal capacity to needs and it is therefore necessary to label equipment containing PCBs and to compile an inventory of PCBs;

Whereas the replacement of PCBs in equipment by other fluids is a difficult operation and may not be fully carried out and whereas it is consequently essential to define rules governing this operation,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to approximate the laws of the Member States on the controlled disposal of PCBs and equipment or objects contaminated by PCBs in order to reduce and prevent pollution.

Article 2

For the purposes of this Directive:

- (a) "PCBs" means:
- polychlorinated biphenyls (PCB),
 - polychlorinated terphenyls (PCT),
 - any mixture containing more than 0.005% by weight of PCBs and/or PCTs.

Whereas PCBs are widely dispersed in the environment and are known to have harmful effects on human health and the environment; whereas it is consequently necessary to prohibit any uncontrolled operation involving PCBs;

Whereas PCBs should be disposed of in a manner which ensures that they are prevented as far as possible from being dispersed in the environment; whereas it is necessary to lay down minimum conditions under which licences are granted to undertakings which carry out their disposal;

Whereas the number of PCB disposal plants is small and their capacity limited; whereas, consequently, disposal programmes for used PCBs must be drawn up to ensure proper planning of PCB disposal;

Whereas it is essential to know what quantities of PCBs exist in order to be able to match disposal capacity to needs; whereas it is therefore necessary to label equipment containing PCBs and to compile an inventory of PCBs;

Whereas the replacement of PCBs in equipment by other fluids is a difficult operation and may not be fully carried out; whereas it is consequently essential to define rules governing this operation,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to approximate the laws of the Member States on the controlled disposal of PCBs and equipment or objects contaminated by PCBs in order to reduce and prevent pollution.

This Directive replaces Directive 76/403/EEC, which is hereby repealed with effect from 1 January 1992.

Article 2

For the purposes of this Directive:

- (a) "PCBs" means:
- polychlorinated biphenyls (PCBs),
 - polychlorinated terphenyls (PCTs),
 - polychlorobiphenyl-tetramethanes (PCBTs),
 - any mixture containing more than 0.005% by weight of PCBs, PCTs and/or PCBTs.

- (b) "Used PCBs" means any PCBs which are waste within the meaning of Directive 75/442/EEC.
- (c) "Equipment containing PCBs" means any apparatus or equipment containing PCBs or having contained PCBs which has not been decontaminated or any object contaminated by PCBs. Until proof to the contrary is provided, equipment containing a fluid which has not been identified shall be treated as equipment containing PCBs.
- (d) "Holder" means any person holding PCBs and/or holding or using equipment containing PCBs.
- (e) "Decontamination" means all operations which enable equipment, objects or materials contaminated by PCBs to be reused or recycled.
- (f) "Replacement" means all operations in which PCBs are replaced by suitable fluids not containing PCBs.

Article 3

Member States shall take the necessary measures to prohibit:

- the uncontrolled disposal of PCBs, used PCBs or equipment containing PCBs,
- the mixing of waste containing PCBs with other waste or substances prior to transfer to a disposal undertaking,

the incineration of PCBs on incinerator ships from 1995.

- (b) "Used PCBs" means any PCBs which are waste within the meaning of Directive 75/442/EEC, as amended by Directive 91/156/EEC.
- (c) "Equipment containing PCBs" means any apparatus or equipment containing PCBs or having contained PCBs which has not been decontaminated or any object contaminated by PCBs. Until proof to the contrary is provided, equipment containing a fluid which has not been identified shall be treated as equipment containing PCBs.
- (d) "Holder" means any person holding PCBs and/or holding or using equipment containing PCBs.
- (e) "Decontamination" means all operations which enable equipment, objects or materials contaminated by PCBs to be reused or recycled.
- (f) "Replacement" means all operations in which PCBs are replaced by suitable fluids not containing PCBs.
- (g) "Regeneration" means the physico-chemical process of separating PCBs from other substances for re-use.
- (h) "Disposal installation" means any installation in which the molecular structure of PCBs can be destroyed and converted into harmless reaction products.
- (i) "Disposal undertaking" means any undertaking operating a disposal installation and licensed to do so.

Article 3

Member States shall take the necessary measures to prohibit:

- the uncontrolled disposal of PCBs, used PCBs or equipment containing PCBs,
- the mixing of waste containing PCBs with other waste or substances prior to transfer to a disposal undertaking,

- the marketing by a disposal undertaking of mixtures with a PCB content greater than 1 ppm, except where such mixtures are intended for another disposal undertaking,

- the incineration of PCBs on incinerator ships,
- exports to third countries and imports from third countries with adequate installations for disposal of PCBs, used PCBs and equipment containing PCBs.

Article 4

1. By way of derogation from Article 3 of Directive 75/442/EEC, Member States shall prohibit regeneration.
2. Member States may authorize PCBs contained in electric transformers to be treated only if:
 - (a) the purpose of this treatment is to ensure, when such transformers are maintained, that the PCBs they contain comply with technical rules or specifications regarding dielectric quality;
 - (b) such treatment is carried out by an authorized undertaking; and
 - (c) the transformer is in good working order and does not leak.

Article 5

By way of derogation from Article 7 of Directive 75/442/EEC, Member States shall take the necessary measures to ensure that holders of used PCBs or of equipment containing PCBs who have not been authorized pursuant to Article 6:

- transfer them as soon as possible to an undertaking authorized pursuant to Article 6;
- take steps to ensure that they are kept away from equipment or containers containing flammable substances.

Article 4

1. By way of derogation from Article 3 of Directive 75/442/EEC, as amended by Directive 91/156/EEC, Member States shall prohibit regeneration.
2. Member States may authorize PCBs contained in electric transformers to be treated only if:
 - (a) the purpose of this treatment is to ensure, when such transformers are maintained, that the PCBs they contain comply with technical rules or specifications regarding dielectric quality;
 - (b) such treatment is carried out by an authorized undertaking; and
 - (c) the transformer is in good working order and does not leak.

Article 5

Member States shall take the necessary measures to ensure that holders of:

(a) used PCBs or equipment containing PCBs who have not been licensed pursuant to Article 6:

- transfer them as soon as possible to an undertaking licensed pursuant to Article 6;
- take steps to ensure that they are kept away from equipment or containers containing flammable substances;
- store them in specially fireproofed locations which satisfy the requirements of Part B of Annex 1;

(b) PCBs:

- take steps to ensure that they are kept away from equipment or containers containing flammable substances;
- store them in specially fireproofed locations which satisfy the requirements of Part B of Annex 1.

1. The licence referred to in Article 8 of Directive 75/442/EEC shall be issued only to PCB disposal establishments or undertakings which satisfy at least the conditions laid down in Annex 1 hereto.

2. Used PCBs and equipment containing PCBs must be transported in accordance with the provisions of Council Directive 84/631/EEC¹ and as described in Annex 2 hereto.

3. Any undertaking or establishment which engages in decontamination or which replaces PCBs by other fluids shall require a licence issued by the competent authorities of the Member States.

4. Member States shall notify the Commission of the names, addresses, telephone and telex numbers and disposal capacities of the undertakings authorized to dispose of PCBs and of any change in this information. The Commission shall publish this information in the *Official Journal of the European Communities*.

5. Licences issued by the competent authorities of a Member State pursuant to paragraphs 1 and 3 shall be recognized by the other Member States.

1. The Member States shall set up or designate the competent authority or authorities responsible for the planning, control and licensing of PCB disposal. The said authorities shall be those designated by the Member States for the purposes of Council Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC.

2. Any undertaking or establishment which engages in decontamination or which replaces PCBs by other fluids shall require a licence issued by the competent authorities of the Member States.

3. Disposal licences shall be granted to undertakings only if the relevant installations meet the conditions set out in Annex 1 to this Directive.

(a) The competent authorities of the Member States shall make unannounced inspections at least once every quarter in order to monitor the installations's compliance with the conditions and emission values. The results of the inspections must be brought to the attention of the local authorities and be accessible to the public.

(b) The operator shall bear civil liability for any environmental damage caused by the operation of a disposal installation, irrespective of any fault on his part, and he shall be obliged to take out insurance in respect of such liability.

(c) PCB disposal undertakings shall keep a register of the quantity, origin, nature and PCB content of waste delivered to them. They shall provide this information to the competent authorities. The register may be consulted by the local authorities and by the public. They shall also issue to holders who deliver waste containing PCBs a receipt specifying the nature and the quantity thereof.

(d) Member States shall notify the Commission of the names, addresses, telecommunications systems numbers and disposal capacities of the undertakings authorized to dispose of PCBs and of any change in this information. The Commission shall publish this information in the *Official Journal of the European Communities*.

4. PCBs, used PCBs and equipment containing PCBs must be transported in accordance with the provisions of Council Directive 84/631/EEC¹ and as described in Annex 2 hereto.

5. Licences issued by the competent authorities of a Member State pursuant to paragraphs 2 and 3 shall be recognized by the other Member States.

Article 7

1. Member States shall take the necessary measures to ensure that:

- (a) PCBs are replaced by other fluids only if other solutions would entail greater risks;
- (b) the minimum conditions laid down in Annex 3 are observed if the PCBs contained in equipment are replaced;
- (c) equipment in which fluids are replaced is properly decontaminated;
- (d) equipment in which fluids are replaced is clearly and indelibly marked as specified in Annex 4;
- (e) any equipment in which PCBs have been replaced is treated as containing PCBs for the purposes of its disposal, unless proof to the contrary is provided.

2. Member States may prohibit the replacement of PCBs in their territory.

Article 8

The reference method of measurement to determine the PCB content and the adaptation to technical progress of the Annexes shall be decided by the Commission after consulting the Committee for adaptation to technical progress established pursuant to Article 12b of Directive 75/442/EEC and in accordance with the procedure laid down in Article 12c of that Directive.

Article 9

1. Member States shall take the necessary measures to ensure that any equipment containing PCBs is labelled in accordance with Annex 5. This label must also be affixed to the door of premises or rooms where equipment containing more than 8 dm³ of PCBs is located.

2. Member States shall compile inventories of equipment containing more than 8 dm³ of PCBs. They shall take the necessary measures to ensure that holders of such equipment notify the competent authorities of the quantities which they hold. Annex 6 sets out the rules for compiling and publishing an inventory and a model of the PCB inventory form to be completed by holders.

3. Member States shall send a summary of these inventories to the Commission.

Article 7

1. Member States shall take the necessary measures to ensure that:

- (a) PCBs are replaced by other fluids only if the replacement fluid entails lesser or no risks;
- (b) the minimum conditions laid down in Annex 3 are observed if the PCBs contained in equipment are replaced;
- (c) equipment in which fluids are replaced is properly decontaminated;
- (d) equipment in which fluids are replaced is clearly and indelibly marked as specified in Annex 4;
- (e) any equipment in which PCBs have been replaced is treated as containing PCBs for the purposes of its disposal, unless proof to the contrary is provided.

2. Member States may prohibit the replacement of PCBs in their territory.

Article 8

The reference method of measurement to determine the PCB content and the adaptation to technical progress of the Annexes shall be decided by the Commission after consulting the Committee for adaptation to technical progress established pursuant to Article 18 of Directive 75/442/EEC, as amended by Directive 91/156/EEC, and in accordance with the procedure laid down in that Article.

Article 9

1. Member States shall take the necessary measures to ensure that any equipment containing PCBs is labelled in accordance with Annex 5. This label must also be affixed to the door of premises or rooms where equipment containing more than 8 dm³ of PCBs, individually or in total, is located.

2. Member States shall compile inventories of equipment containing more than 8 dm³ of PCBs. They shall take the necessary measures to ensure that holders of such equipment notify the competent authorities of the quantities which they hold. Annex 6 sets out the rules for compiling and publishing an inventory and a model of the PCB inventory form to be completed by holders.

3. Member States shall send a summary of these inventories to the Commission.

4. Member States shall monitor the notified quantities at intervals by means of spot checks and shall compare the quantities booked out with the receipts issued by the disposal undertakings in accordance with Article 6(3)(c).

Article 10

Member States shall, within three years of the notification of this Directive and after consulting the Waste Management Committee set up by the Commission Decision 76/431/EEC,¹ draw up plans such as those referred to in Article 6 of Directive 75/442/EEC relating to:

- the disposal of used PCBs and equipment containing PCBs,
- the collection of capacitors containing less than 7 dm³ of PCBs or equipment containing such capacitors.

Member States shall notify these plans to the Commission without delay.

Article 11

Member States shall implement:

- (a) for holders of PCBs and equipment containing PCBs, information programmes on the hazards of PCBs to human health and the environment and on the precautions to be taken to ensure protection;
- (b) for members of the emergency services, training programmes on measures to be taken in the event of accidents involving PCBs;
- (c) for the general public, information campaigns concerning PCBs.

Article 12

1. Directive 76/403/EEC is hereby repealed with effect from 1 January 1990.

2. References to the Directive repealed under paragraph 1 shall be construed as references to this Directive. References to the Articles of that Directive shall be read in accordance with the table in Annex 7.

(Article 13)

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 10

Member States shall, within three years of the notification of this Directive and after consulting the Waste Management Committee set up by Commission Decision 76/431/EEC,¹ draw up plans such as those referred to in Article 7 of Directive 75/442/EEC, as amended by Directive 91/156/EEC, relating to:

- the disposal of PCBs, used PCBs and equipment containing PCBs,
- the collection of capacitors containing less than 7 dm³ of PCBs or equipment containing such capacitors.

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- (b) for members of the emergency services, training programmes on measures to be taken in the event of accidents involving PCBs;
- (c) for the general public, information campaigns concerning PCBs.

Article 12

References to the Directive repealed under Article 1 shall be construed as references to this Directive. References to the Articles of that Directive shall be read in accordance with the table in Annex 7.

Article 13

1. Member States shall ensure that any infringement of this Directive is punished.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 13

1. Member States shall take the necessary measures to comply with this Directive from 1 January 1990. They shall forthwith inform the Commission thereof.

Article 14

This Directive is addressed to the Member States.

Article 14

1. Member States shall take the necessary measures to comply with this Directive from 1 January 1992. They shall forthwith inform the Commission thereof.

2. When the Member States adopt such provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference when officially published. The form such reference shall take shall be decided by the Member States.

Article 15

This Directive is addressed to the Member States.

ANNEX 1

A. INSTALLATIONS FOR THE FINAL DESTRUCTION OF PCBs

1. These installations shall be designed and maintained according to standards of the best available technology not entailing excessive costs. They shall be operated at all times to ensure that all outflows of solids, fluids or gases do not contain PCBs or products arising from their incomplete (partial) oxidation.

2. All these installations shall be operated in such a way as to ensure that the specific process parameters are continuously maintained and there are sufficient excess reactants to ensure that the reactions reach a safe level of completion.

3. In addition to the general requirements outlined above the following conditions must be observed for incineration installations:

(a) conventional (open) incineration installations shall be equipped with safety back-up systems to ensure a continued supply of energy and reactants in the event of failure in normal sources of supply in order to maintain safe reaction conditions as long as toxic materials remain in the installation or until the normal supply can be restored;

(b) the installations shall be equipped with automatic continuous monitoring equipment, the operation of which shall be able to override the operation of the installation and trigger its safety equipment. The monitoring equipment shall be protected from manual interference and shall be designed for regular automatic calibration; it shall be connected to sufficient sensors to enable it to make good representative measurements;

1. The installations shall be designed and operated according to standards of the best available technology in such a way as to ensure that neither emissions nor waste contain, in total, more than 0.00002% of the quantity of PCBs treated.

2. All these installations shall be operated in such a way as to ensure that the specific process parameters are continuously maintained and there are sufficient excess reactants to ensure that the reactions reach a safe level of completion.

Deliveries of PCBs or used PCBs to the installation shall be stopped and the feeding of PCBs or used PCBs to the incinerator or destruction equipment shall be automatically stopped where a disturbance prevents these conditions from being maintained.

3. In addition to the general requirements outlined above the following conditions must be observed for incineration installations:

(a) conventional (open) incineration installations shall be equipped with safety back-up systems to ensure a continued supply of energy and reactants in the event of failure in normal sources of supply in order to maintain safe reaction conditions as long as toxic materials remain in the installation or until the normal supply can be restored;

(b) the installations shall be equipped with automatic continuous monitoring equipment, the operation of which shall be able to override the operation of the installation and trigger its safety equipment. The monitoring equipment shall be protected from manual interference and shall be designed for regular automatic calibration; it shall be connected to sufficient sensors to enable it to make good representative measurements;

(c) the Incinerator must totally destroy the molecules of toxic substances. For this purpose conventional Incineration Installations must be equipped with post-combustion chambers with swirl devices. A minimum temperature of 1 200°C must be maintained in this chamber during combustion and the residence time of the gases must be at least two seconds. The gases discharged from the Installations must have an oxygen content of 3% by volume;

intoxic equivalents

(c) the Incinerator must destroy 99.9998% of the PCBs fed into it. In new Installations, the limit value for dioxins and furans may not exceed 0.1 mg/m³. In the case of existing Installations, this value must be applied from 1 January 1995. For this purpose conventional Incineration Installations must be equipped with post-combustion chambers with swirl devices. A minimum temperature of 1 200°C must be maintained in this chamber during combustion and the residence time of the gases must be at least two seconds. The gases discharged from the Installations must have an oxygen content of at least 3% by volume. The temperature and oxygen content readings shall be recorded automatically in sealed, tamper-proof apparatus;

(d) where the process does not use post-combustion, Incineration efficiency must be comparable to that of conventional Incineration.

(d) where the process does not use post-combustion, Incineration efficiency must be comparable to that of conventional Incineration. Other methods of disposing of PCBs may be accepted provided they satisfy technical requirements laid down following consultation of the Committee for adaptation to technical progress.

B. INSTALLATIONS FOR THE COLLECTION AND TEMPORARY STORAGE OF
PCBs AND OF EQUIPMENT CONTAINING PCBs

1. Such installations shall be approved and their operation monitored by the competent local authorities; they shall satisfy national requirements for safety at work.
2. All sites where containers, materials or equipment containing PCBs are handled or stored shall have impervious bases capable of supporting any foreseeable load and able to contain any leakage of PCBs.
3. Such sites and structures must comply with the fire prevention and protection requirements approved by the competent authorities (fire service). Containers for PCBs shall be impermeable, have double walls and be labelled.
4. The leak containment capacity shall be not less than half the maximum PCB storage capacity and greater than the total volume of the largest single mass of PCBs contained in the largest piece of equipment.
5. Such structures shall be covered to prevent the entry of atmospheric precipitation and equipped with a special drainage system to collect all contaminated liquids to prevent their escape into the local drainage system.

1. Such installations shall be approved and their operation monitored by the competent local authorities; they shall satisfy national requirements for safety at work.
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3. Such sites and structures must comply with the fire prevention and protection requirements approved by the competent authorities (fire service). Containers for PCBs shall be impermeable, have double walls or a collection tank, and be labelled.
4. The leak containment capacity shall be not less than half the maximum PCB storage capacity and greater than the total volume of the largest single mass of PCBs contained in the largest piece of equipment.
5. Such structures shall be covered to prevent the entry of atmospheric precipitation and equipped with a special drainage system to collect all contaminated liquids to prevent their escape into the local drainage system.

ANNEX 2

TRANSPORT OF USED PCBs AND EQUIPMENT CONTAINING PCBs

1. Where the relevant international transport agreements or codes which appear in Annex II to Directive 84/631/EEC¹ on transfrontier shipment of dangerous and toxic substances make specific mention of PCBs the requirements of these agreements and codes shall apply to national and international transport.

2. Where there is no specific mention of PCBs in the relevant international transport agreements or codes, the requirements of class 6.1, item 17b, of the ADR and RID shall apply to the national and international transport of PCBs by road and rail respectively. The requirement of class IVa of the ADNR shall apply to the transport of PCBs by inland waterway.

3. When more than 50 ppm of PCBs are present in a mixture with another dangerous substances such as petroleum oil which must satisfy different packaging, labelling or transport requirements, the more stringent requirements shall apply and the two substances must be marked. PCB containers must close hermetically and have absorbent material in their base.

1. Supervision and control within the Community of transfrontier shipments of used PCBs and equipment containing PCBs shall be in accordance with the provisions of Directive 84/631/EEC.

2. Where the relevant international transport agreements or codes which appear in Annex II to Directive 84/631/EEC¹ make specific mention of PCBs the requirements of these agreements and codes shall be considered to satisfy the conditions of Article 8 of Directive 84/631/EEC.

3. Where there is no specific mention of PCBs in the relevant international transport agreements or codes, the requirements of class 9.2.B of the ADR and the RID and the requirements of class IVa of the ADNR* shall be considered to satisfy the conditions of Directive 84/631/EEC.

4. When more than 50 ppm of PCBs are present in a mixture with another dangerous substances such as petroleum oil which must satisfy different packaging, labelling or transport requirements, the more stringent requirements shall apply and the two substances must be marked. PCB containers must close hermetically and have absorbent material in their base.

¹ OJ No L 326, 13.12.1984.

* ADR: European Agreement concerning the International Carriage of Dangerous Goods by Road
RID: International Regulations concerning the Carriage of Dangerous Goods by Rail
ADNR: Regulation for the Carriage of Dangerous Substances on the Rhine

ANNEX 3

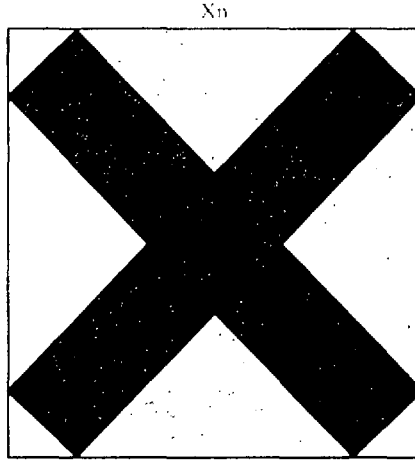
REPLACING PCBs IN EQUIPMENT

1. Equipment containing PCBs must be drained, cleaned and refilled without polluting the environment in any way.
2. Equipment containing PCBs may be refilled only with a suitable fluid which does not contain PCBs.
3. A single item of equipment situated in the vicinity of other equipment which still contains PCBs should not be filled with a substitute fluid with an ignition point under 300 °C.
4. The PCBs contained in a substitute fluid must be physically or chemically separable.
5. The level of contamination of the new fluid by residual PCBs in the equipment shall not exceed 500 ppm.
6. During the time required for the residual PCBs to infiltrate the new fluid, the equipment in question shall continue to carry the label to be affixed to equipment containing PCBs shown in Annex 5 while it is in operation and until such time as the new fluid has been shown to have a contamination level below 500 ppm for a period of at least 90 days.
7. When the equipment which has been refilled in accordance with the above provisions has been shown to contain a fluid that is not contaminated with more than 500 ppm of PCBs, during the rest of its lifetime an indelible and clearly visible sign shall be fixed to it as set out in Annex 4.
8. At the end of the life of such refilled equipment the fluid shall be analyzed. If it contains more than 50 ppm of PCBs, the equipment and fluid shall be disposed of according to the method laid down for the destruction of PCBs. If some components of the equipment have levels of less than 50 ppm of PCBs after decontamination they may be recycled.
9. Member States shall ensure that adequate analytical services are available to owners of equipment containing PCBs.

ANNEX 4

LABELLING OF EQUIPMENT IN WHICH PCBs HAVE BEEN REPLACED BY OTHER FLUIDS

Each item of equipment shall be clearly marked with an indelible and embossed or engraved sign on at least two sides once the new fluid is shown not to contain more than 500 ppm of PCBs in accordance with the provisions of Annex 3. This label must include the following symbol and be worded in the language of the country in which the equipment is used and in English:



This equipment was originally filled with a fluid containing PCBs. It was refilled with (substitute) on (date)

There may still be some residual PCBs in the fluid and the equipment.

Before treating or disposing of the equipment check (compare) the level of PCBs and the relevant Community rules.

Date(s) of sampling

Residual PCBs

.....

.....

.....

.....

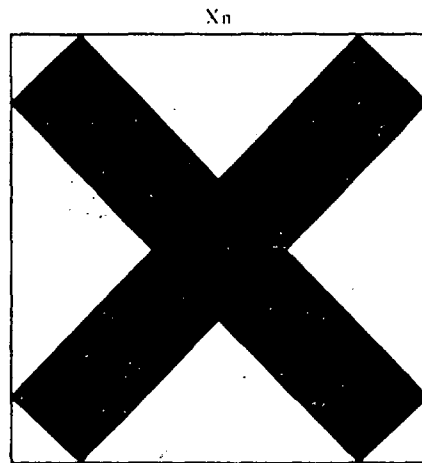
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ANNEX 5

LABELLING OF EQUIPMENT CONTAINING PCBs

Such equipment shall be clearly and individually marked with an indelible sign in accordance with Directive 79/831/EEC and worded in the language of the country in which it is used and in English.



ANNEX 6

INSTRUCTIONS ON HOW TO COMPILE AN INVENTORY

1. To enable identification of equipment containing PCBs and to facilitate the decoding of the coded information on rating plates (name-plates), Member States shall obtain all relevant information from manufacturers and distributors of such equipment, in particular of capacitors containing PCBs.
2. The inventory shall be kept up to date by means of the attached form. If equipment is emptied or decontaminated before recycling or destruction, this must be notified and recorded. Every user of equipment containing PCBs is required to keep a logbook in which all changes to the equipment shall be recorded.
3. Copies of the forms must be sent by holders to the competent authorities and the fire and police services.
4. Member States shall publish this information in the industrial press (electrical, maintenance, plant management, etc) and send such information to the fire service, waste disposal companies, local authorities, etc.

ANNEX 6 (continued)

DECLARATION FORM TO BE COMPLETED BY HOLDER OF PCBs

Date of declaration/...../19..... Holder (name of individual or company):
.....
.....

Holder's address Telephone No

1. LOCAL AUTHORITY UNDER WHOSE JURISDICTION THE OBJECT FALLS
2. LOCATION OF PCBs
(give sufficient details)
3. PURPOSE FOR WHICH OBJECT USED
(unit containing it)
4. DESCRIPTION OF THE EQUIPMENT CONTAINING THE PCB
(overall dimensions and volume)
5. SERIAL NUMBER/TYPE
6. MANUFACTURER
7. DATE OF MANUFACTURE
8. NAME AND/OR TYPE OF PCBs CONTAINED
9. QUANTITY OF PCBs CONTAINED
10. DATE OF REPLACEMENT
(if carried out)
11. PRESENT OWNER OF OBJECT
12. LEGAL ADDRESS OF OWNER
13. TELEPHONE NUMBER WHERE OWNER CAN BE CONTACTED
14. OTHER COMMENTS
15. IF YOU CANNOT COMPLETE THIS FORM, COPY THE NAME PLATE.

Signature of respondent
.....

ANNEX 7

Directive 76/403/EEC	This Directive
Article 1(a) Article 1(b)	Article 2(a) Article 1(e) and (g) of Directive <u>91/156/EEC</u> amending <u>Directive 75/442/EEC</u>
Article 2 Article 3 Article 4	Article 3 Article 5 Article 4 of Directive <u>91/156/EEC</u> amending <u>Directive 75/442/EEC</u>
Article 5 Article 6 Article 7 Article 8	Article 4 Article 6 Article 5 Article 15 of Directive <u>91/156/EEC</u> amending <u>Directive 75/442/EEC</u>
Article 9 Article 10	Article 13(2) Article 16 of Directive <u>91/156/EEC</u> amending <u>Directive 75/442/EEC</u>
Article 11 Article 12 Article 13	Article 13(1) Article 13(3) Article 14

DOCUMENTS

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