

# EUROPEAN PARLIAMENT

1999



2004

---

*Session document*

FINAL  
**A5-0379/2000**

6 December 2000

## REPORT

on implementation of Directive 96/59/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)  
(2000/2112(INI))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: David Robert Bowie



**CONTENTS**

	<b>Page</b>
PROCEDURAL PAGE .....	4
MOTION FOR A RESOLUTION.....	5
EXPLANATORY STATEMENT .....	8

## PROCEDURAL PAGE

At the sitting of 4 May 2000 the President of Parliament announced that the Committee on the Environment, Public Health and Consumer Policy had been authorized to draw up a follow-up report, pursuant to Rule 163 of the Rules of Procedure, on implementation of Directive 96/59/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT), as the committee responsible (2000/2112(INI)).

The Committee on the Environment, Public Health and Consumer Policy had appointed David Robert Bowe rapporteur at its meeting of 23 February 2000.

The committee considered the draft report at its meetings of 10 July, 22 November and 5 December 2000 .

At the last meeting it adopted the motion for a resolution unanimously and decided to apply the procedure without debate under Rule 114(1) of the Rules of Procedure.

The following were present for the vote: Caroline F. Jackson chairman; Alexander de Roo and Ria Oomen-Ruijten, vice-chairmen; David Robert Bowe, rapporteur; Per-Arne Arvidsson, Maria del Pilar Ayuso González, Hans Blokland, Hiltrud Breyer, Dorette Corbey, Chris Davies, Avril Doyle, Marialiese Flemming, Karl-Heinz Florenz, Robert Goodwill, Cristina Gutiérrez Cortines, Roger Helmer, Christa Klač, Bernd Lange, Peter Liese, Jules Maaten, Minerva Melpomeni Malliori, Patricia McKenna, Jorge Moreira Da Silva, Rosemarie Müller, Riitta Myller, Giuseppe Nisticò, Béatrice Patrie, Marit Paulsen, Encarnación Redondo Jiménez (for Cristina García-Orcóyen Tormo), Dagmar Roth-Behrendt, Guido Sacconi, Jean Saint-Josse, Karin Scheele, Ursula Schleicher (for Emilia Franziska Müller), Horst Schnellhardt, Inger Schörling, Jonas Sjöstedt, Renate Sommer (for Françoise D. Grossetête), María Sornosa Martínez, Dirk Sterckx (for Frédérique Ries), Catherine Stihler, Robert William Sturdy (for John Bowis), Charles Tannock (for Eija-Riitta Anneli Korhola), Nicole Thomas-Mauro, Antonios Trakatellis, Phillip Whitehead.

The report was tabled on 6 December 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

### European Parliament resolution on implementation of Directive 96/59/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) (2000/2112(INI))

*The European Parliament,*

- having regard to Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) <sup>1</sup>,
- having regard to the amended proposal for a Council Directive on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) (COM(91) 373) <sup>2</sup>, which modified the legal basis,
- having regard to Commission's proposal for a Council Directive on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (COM(88) 559)<sup>3</sup>, which was presented to take into account technical progress and to replace the first Directive approved in 1976,
- having regard to Council Directive 76/403/EEC <sup>4</sup>, on the disposal of polychlorinated biphenyls and polychlorinated terphenyls, which was the first approximation of laws and regulations of the Member States,
- having regard to Rule 47(2) and to Rule 163 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Consumer Policy (A5-0379/2000),

**A.** *whereas there are still quantities of PCBs in store, but the size of these stocks is not exactly known; whereas the Member States should notify the Commission of the size of the stocks,*

- 1.** **Recommends that the immediate priority should be to implement the existing legislation rather than to redraft and reform the Directive.**

**Considers in particular, that:**

- 2.** *Member States have largely failed so far to achieve the aim agreed in Directive 96/59/EEC of reducing PCB pollution and preventing danger to public health and the environment.*
- 3.** With notable exception of Finland and Netherlands the implementation of the Directive has been extremely unsatisfactory.
- 4.** *Recent events such as the dioxin/chicken crisis in Belgium have demonstrated the*

---

<sup>1</sup> OJ L243, 24.09.1996, p.31.

<sup>2</sup> OJ C 299, 20.11.1991, p.9.

<sup>3</sup> OJ C 319, 12.12.1988, p.57.

<sup>4</sup> OJ L 108, 26.04.1976, p.41

*devastating effects, both on health and on economic sectors, of contamination by a relatively small quantity of PCB.*

5. *Notes that reports have shown that the amount of PCB in equipment excluded from the scope of the inventory required by article 4 of this directive, particularly quantities under 5 dm<sup>3</sup>, contribute largely/significantly to ongoing PCB pollution.*
6. *Deplores the fact that the completion of the inventories of equipment containing PCB required by article 4 of directive 96/59 has not yet been achieved by many Member States and considers that the accuracy and completeness of these inventories are essential to monitor and control the adequate disposal of PCB-containing equipment, and thus to meet the aims of the Directive.*
7. *Calls on the Member States to notify the Commission of the size of the stocks of PCBs, as well as making this information public.*
8. *Calls on the Member States to carry out proper inspections in order to complement and enhance the existing notification systems.*
9. *Calls/Urges on the Member States to develop collection systems and disposal outlines, if necessary with appropriate incentives, for equipment containing PCBs but not subject to inventories by article 4; considers that for such electrical equipment, this question could be addressed within the framework of the electronic waste directive.*
10. The Commission has been slow to censure Member States for non-compliance. The Commission should put in place better monitoring procedures and ensure that Member States promptly provide all information required in the Directive in a format that allows direct comparisons and quantitative judgements to be made.
11. The Commission should determine a clear deadline for the full implementation of the Directive and also for a review with the intention of developing further existing measures.
12. Commission should consider imposition of financial penalties upon Member States for non-compliance.
13. *Calls on the Commission to develop/promote exchanges of information between Member States in order to facilitate the establishment of inventories as mentioned in Article 4 and the development of solutions for the collection and disposal of PCB-containing equipment falling outside the scope of the inventory as required by article 11.*
14. *Commission should bring forward without any further delay a proposal to amend Directive 75/431/EEC on the disposal of waste oils;*
15. Commission should invite Member States to introduce financial incentives in

particular for individuals and SMEs to dispose of stocks of PCBs or equipment containing PCBs.

16. *Considers that the implementation of the PCB directive and, further, the elimination of PCBs should be a test case for how the Union can develop efficient policies which could more effectively tackle other highly toxic substances.*
17. *Instructs its President to forward this resolution to the Commission and Council and to the governments and parliaments of the Member States.*

# Explanatory Statement

## What are PCBs?

PCBs, or polychlorinated biphenyls, constitute a family of man-made colourless and odourless chemicals.

The industrial production started in 1929 and reached a maximum in the 1970s. PCBs are produced by chlorination of biphenyl with anhydrous chloride. The result is a mixture of different congeners, which is purified by neutralisation and distillation. PCBs are no longer manufactured in Europe in the USA.

The industrially produced PCB mixtures are colourless liquids. Their viscosity, their density and their lipid solubility increase with increasing the chlorine substitution, whereas their water solubility and vapour pressure decrease. The value of PCBs for industrial applications is related to their chemical inertness, resistance to heat, low flammability, low vapour pressure, high dielectric constant and low acute toxicity.

These properties made them particularly suitable for applications such as dielectrics in transformers and large capacitors, as heat exchange fluids and filler of hydraulic tools. There is also widespread use as lubricants for turbines and pumps in the formulation of cutting oils for metal treatment, sealings, adhesives, paints and carbonless copy paper.

Due to their chemical stability - originally seen as a useful characteristic, the PCBs are very persistent in the environment and associate with the organic components of soils, marine sediments and biological tissues, in which they can accumulate and then enter the food chain.

The chemical properties of PCBs (low water solubility, high stability and semi-volatility) favour their long-range atmospheric transport in the environment, making them detectable in remote areas like the arctic and they have been detected in the fatty tissues of animals and even humans even in these remote areas.

Health concerns about PCBs were triggered by an incident in 1968, when 1850 people in Yusho (Japan) became ill after eating rice oil, which was accidentally, heavily contaminated with PCBs. Environmental concerns first surfaced in the late 1960's - some 30 years after PCBs were introduced-, when a Swedish scientist found that egg-shell thinning among seabirds, in relationship with bioaccumulation of PCBs led to reduced reproductive capacity. High levels of PCBs in the environment have also been linked to the death of wildlife such as guillemots in the North Sea.

The use of PCBs in open applications such as printing inks and adhesives was banned in the European Community in 1979. The use of PCBs as a raw material or chemical intermediate has been banned in the EU since 1985. Since then, in the EU, the 1976 Directive has been replaced by the Directive 96/59/EC, adopted in September 1996. The new directive controls the disposal of PCBs and polychlorinated terphenyls (PCTs) as well as the equipment used in their disposal.



## **Brief details on Directive 96/59/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs)**

1. The original Commission proposal was submitted to the Council on 3 November 1988. Following the Opinion delivered by the European Parliament on 12 December 1990, the Commission submitted an amended proposal to the Council the legal basis of which was Articles 100a and 113 of the Treaty.
2. At its meeting on 15 and 16 December 1994, the Council reached agreement in principle with a view to adopting a Common Position. As part of this agreement the Council thought it more appropriate for Article 130s(1) of the Treaty to constitute the legal basis. The European Parliament was consulted on this point and approved the change in legal base in a Resolution dated 20 September 1995. The date of entry into force of the directive was 16 September 1996 and the deadline for implementation of the legislation in the Member States was 16 March 1998.

### **The key features of the Directive were as follows:**

1. Member States must take the necessary measures to ensure that:
  - used PCBs are disposed of;
  - PCBs and equipment containing PCBs are decontaminated or disposed of.

### **To that end it was determined that:**

- within 3 years EU Member States must submit an inventory and detailed plans for the decontamination or disposal of contaminated equipment. These will have to cover all equipment containing more than 5 litres of PCB.
- a deadline of 2010 is set for complete destruction or decontamination of equipment containing PCBs. The only exception is for transformers containing less than 50 ppm of PCB, which are allowed to remain in service indefinitely.

It should be noted that in addition to agreeing the formal text of the proposal, the following statements were placed in the Council minutes:

## **Statement For The Council Minutes**

### **Directive in general:**

1. “Belgium, Denmark, Germany, Ireland, Italy, Luxembourg, Austria, the Netherlands, Finland, Sweden and the United Kingdom would like the Commission to submit as soon as possible a proposal to amend Directive 75/439/EEC on the disposal of waste oils, as amended by Directive 87/101/EEC, in order to reduce the limit of 50 ppm of PCBs for waste oils likely to be regenerated or used as fuel.”
2. “The Commission states that it will submit to the Council as soon as possible a proposal

for amendment Directive 75/439/EEC on the disposal of waste oils, as amended by Directive 87/101/EEC, in order to reduce the limit of 50 ppm of PCBs in the case of mixtures intended for incineration, including waste oils, to 20 ppm.”

3. “Germany, Belgium, Denmark, the Netherlands and the United Kingdom as Member States bordering the North Sea, as well as Austria, Finland, Luxembourg and Sweden, reaffirm their commitment to disposing of PCBs as soon as possible and by 1 January 2000 at the latest.”

4. “France” reaffirms its more stringent commitments for the disposal of PCBs as defined in PARCOM Decision 92/3”

### **First sentence of Article 3 and second indent of Article 11 (1):**

“The Council and the Commission state that the disposal of used PCBs and the decontamination or disposal of PCBs and equipment containing PCBs, as referred to in the first sentence of Article 3, relates only to inventoried PCBs as referred to in the second sentence of the same Article and to PCBs which are not inventoried and for which an outline as referred to in the second indent of Article 11 (1) has to be drawn up.”

It is clear from these statements that both Council and the Commission recognised the limitations of the proposal that they had agreed both in terms of the timescale and its scope.

### **State of implementation of legislation**

Despite the commitments and assurances given by member states the record of implementation has so far been poor. The table below indicates the most recent “state of play” with regard to action by the Commission for failure to comply with their responsibilities to implement the directive.

**TABLE:**  
**Infringement procedures concerning Directive 96/59/EC on the disposal of  
polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)**  
**(status 20.10.00 based on the most recent commission decisions)**

Member State	Non-communication	Bad application: various provisions of the Directive	Bad application: Art 4.1 and 11
Austria			FN
Belgium			FN
Denmark			FN
Finland			
France			RO
Germany	Court		FN
Greece	Court	RO	RO
Ireland			RO
Italy			RO
Luxembourg			RO
Netherlands			
Portugal			RO
Spain			RO
Sweden			FN
UK	Court		RO

FN = Letter of Formal Notice

RO = Reasoned Opinion

Court = Decision concerning seizure of/Proceedings before the Court of Justice

Decisions on further action to be taken are scheduled for a meeting of the Commission on the 20 December and it seems likely that the Court cases against three member states for non-Communication may then be withdrawn. However, with honourable exceptions of Finland and the Netherlands the full provision of the directive remain to be fully applied in other member states.

### **Present Situation**

The total amount of PCBs produced in the world since 1929 is estimated to be between 1 and 1.2 million tonnes. The total amount of PCB released to the environment in the Northern Hemisphere is about 100,000 tonnes, 75% having been released between 1955 and 1970. Current emissions are much lower and are estimated to be between 10 and 100 tonnes per year both in the OSPAR area and in North America, the larger part of it coming from

electrical equipment. Recent studies have indicated that, in the OSPAR area, about 5000 tonnes of PCB could still be present in old buildings in the form of various surface coatings and sealant. If this is the case, large amount of PCBs could be emitted during the demolition of buildings.

Despite the existing regulations, there is still a substantial amount of PCB in use, because exemption has been given in many countries for contained use in existing equipment with long lifetimes at least for an initial period after a production ban was decided. There are also quantities in storage awaiting disposal.

While estimates of the extent of stockpiles has not been publicly reported as part of the UNEP POPs treaty negotiation process, all nations were asked to provide detailed inventory information regarding status of PCB stockpiles/wastes and products in use. Few EU member states provided this information to the UNEP secretariat in any detail. Only Germany (23,000 tonnes) and Belgium (10,000 tonnes) reported substantial holdings, while Finland, Austria, Ireland reported small holdings. Other countries provided no detailed responses at all in this regard.

Also of relevance is the recent work carried out by Belgium for the HARP-HAZ project on the amounts of PCBs in open applications and other systems which do not fall under the European Directive 96/59/EC. The results of this demonstrate that such applications may provide a substantial input to the PCB loadings in the EU.

There is now a considerable amount of evidence from work undertaken in the last five years to suggest that there is ongoing pollution of the environment from PCBs in the EU.

Recent studies on the human intakes of PCB's have indicted that unlike, for example, Dioxins exposure to PCB's have not declined and may be on the increase.

Food accounts for 95% - 98% of human exposure to PCB's. Recent studies have shown that since 1992 many foods including meats, fats, oils, poultry and dairy products showed an increase in PCB levels. In fact PCB exposure did not decline between 1992 and 1997 despite reductions in fat intake, and PCB's are now as significant as dioxins in terms of human exposure. This all suggests that improved controls on PCB's should be a priority in reducing exposure.

The chemical industry has extensive experience in developing and operating high-temperature incinerators that can effectively destroy PCBs and waste containing PCBs. ICCA/WCC representing the global chemical industry take the view that high-temperature incineration should be considered as the Best Available Technique (BAT) for the environmentally sound destruction of PCBs.

Properly equipped and operated incinerators will achieve a guaranteed Destruction removal Efficiency of at least 99.9999 percent for PCBs. The dioxin/furan equivalent level obtained in the off-gases is lower than 0.1 ng TEQ/m<sup>3</sup> (established as the mandatory emission limit value for incinerators operating in the European Union).

There are other techniques capable of destroying PCBs, although not all have yet reached the stage where they are fully available commercially or have been proven in full-scale trials to equal the performance of high-temperature incineration. However, some alternative methods

have been commercialised in other parts of the world.

The use of incinerators could therefore be a major factor in implementing a programme for the effective and safe disposal of the remaining PCBs stocks and products still in use around the world.

There is no doubt that adequate high temperature incineration exists within the EU to undertake such a programme of disposal. However a major barrier to action appears to be cost. Costs from PCB disposal vary depending upon the nature of the material but disposal costs for PCB in pure form or in oil, liquid or solid waste range between over a thousand to several hundred Euros per tonne. So for the time being, individuals or small companies willing to get rid of PCBs present in electrical transformers or any other devices would pay quite a lot of money to destroy PCBs. There is no incentive to declare such a stock (on the contrary) and, consequently, as it happened two years ago in Belgium with the so called "dioxin-chicken-story". People try to find an unofficial way to dispose of PCBs to avoid the payment of the fee. Through this black market, the PCBs could finish up normal waste with possible dramatic consequences for environmental pollution and public health.

Industry sources indicate that only a relatively small amount of PCB's remains in use and is currently going to high temperature incinerators for destruction.

In the UK one major incinerator has reported of disposing only 250 tonnes of PCB material this year (calendar year 2000) and indicates that this period is not discernibly different for recent comparable periods. In addition they have said:

"Currently, although assuming that the major electricity companies will still have PCB's to dispose of, we can only speculate that dilution in use, accidental or inappropriate disposal (in situ/via scrap dealers) and possibly, lack of identification have all played various parts in producing the present situations".

This is clearly an unacceptable situation posing serious and ongoing threats to the environment and public health and the Commission and member states must act immediately to remedy this situation.