Mr Lummes 154/20/0/27

EUROPEAN COMMUNITIES

The Council

Brussels, 2[illegible]/December

R/3239/75 (ENV. [illegible])

[illegible]

COUNCIL DIRECTIVE

OF

on the disposal of

polychlorinated biphenyls and polychlorinated terphenyls

[redacted]

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament (1),

Having regard to the Opinion of the Economic and Social Committee (2),

(1) OJ No C 157, 14. 7.1975, p. 87
(2) OJ No C 263, 17.11.1975, p. 34

R/3239/e/75 (ENV. [illegible])

.../...

MONS 061243

Whereas any disparity between the provisions on the disposal of polychlorinated biphenyls (PCB) already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas it is therefore necessary to approximate laws in this area as provided for in Article 100 of the Treaty;

Whereas the elimination of PCB's is necessary in order to attain, within the framework of the common market, the objectives of the Community in the fields of improvement of living conditions, harmonious development of economic activities throughout the Community and continuous and balanced expansion; whereas, the necessary powers not having been provided in the Treaty, Article 235 should be invoked;

Whereas PCB's present hazards which are widely recognized as being harmful to human health and the environment; whereas these substances must therefore be controlled at each stage of their use;

Whereas the programme of action of the European Communities on the environment ([1]) recognizes the need for Community action with regard to waste the treatment of which, because of its toxicity and non-degradability, requires solutions extending beyond the national framework;

([1]) OJ No C 112, 20.12.1973, p.3

MONS 061244

Whereas Council Directive 76/ /EEC of 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 ([1]) already restricts use of those substances for certain categories of application;

Whereas Directive 75/442/EEC ([2]) relates to the disposal of waste in general; whereas it is necessary to lay down special arrangements for particularly dangerous waste to ensure that human health and the environment will be safeguarded against harmful effects from such waste or from uncontrolled abandonment or dumping; [illegible] such arrangements [illegible]

Whereas, in order to avoid as far as possible the risks of dispersion into the environment, the Member States should take the necessary measures to make mandatory the disposal of waste PCB or of PCB in objects or equipment no longer capable of being used;

Whereas provision should also be made for the setting up or designation by the Member States of installations, establishments or undertakings to be responsible for the disposal of PCB; whereas anyone in possession of PCB which he wishes to dispose of must make it available to such installations, establishments or undertakings,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purpose of applying this Directive:

(a) PCB means: polychlorinated biphenyls
polychlorinated terphenyls
mixtures containing one or both of such substances

([1]) OJ No L
([2]) OJ No L 194, 25.7.1975, p. 39

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(b) disposal means:

- the collection and/or destruction of PCB
- the operations necessary for regenerating PCB.

Article 2

Member States shall take the necessary measures to prohibit the uncontrolled discharge, dumping and tipping of PCB and of objects and equipment containing such substance.

Article 3

Member States shall take the necessary measures to make compulsory the disposal of waste PCB and PCB contained in objects and equipment no longer capable of being used.

Article 4

Member States shall take the necessary measures to ensure that PCB is disposed of

- without endangering human health and without harming the environment, and
- wherever possible, by means of regeneration.

Article 5

For the purpose of applying Articles 2, 3 and 4, the competent authorities of the Member States shall set up or designate the installations, establishments or undertakings which are authorized for the purposes of disposing of PCB on their own account and/or on behalf of third parties.

Article 6

Anyone holding PCB who is not authorized to dispose of it within the meaning of Article 5 shall hold it available for disposal by the installations, establishments or undertakings referred to in that Article.

Article 7

In accordance with the "polluter pays" principle, the cost of disposing of PCB, less any proceeds derived from treating the PCB, shall be borne by:

- the holder who has the PCB handled by an installation, establishment or undertaking referred to in Article 5;
- and/or the previous holders or the producer of the PCB or of the equipment containing PCB.

Article 8

Each Member State shall lay down the special provisions with which the holders of PCB and the installations, establishments or undertakings referred to in Article 5 must comply pursuant to this Directive.

Article 9

Every three years, each Member State shall draw up for the Commission a situation report, within the framework of the report referred to in Article 12 of Directive No 75/442/EEC, on the disposal of PCB in their territory. To this effect, the installations, establishments or undertakings referred to

in Article 5 must supply the competent authorities referred to in that same Article with particulars of the disposal of the PCB's. The Commission shall circulate this report to the other Member States.

The Commission shall report every three years to the Council and to the European Parliament on the application of this Directive.

Article 10

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

Article 11

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels
For the Council
The President