

EUROPEAN PARLIAMENT

Working Documents

1976 - 1977

HHH, 311
(decreases
substance)
+
628

13 December 1976

DOCUMENT 446/76

Report

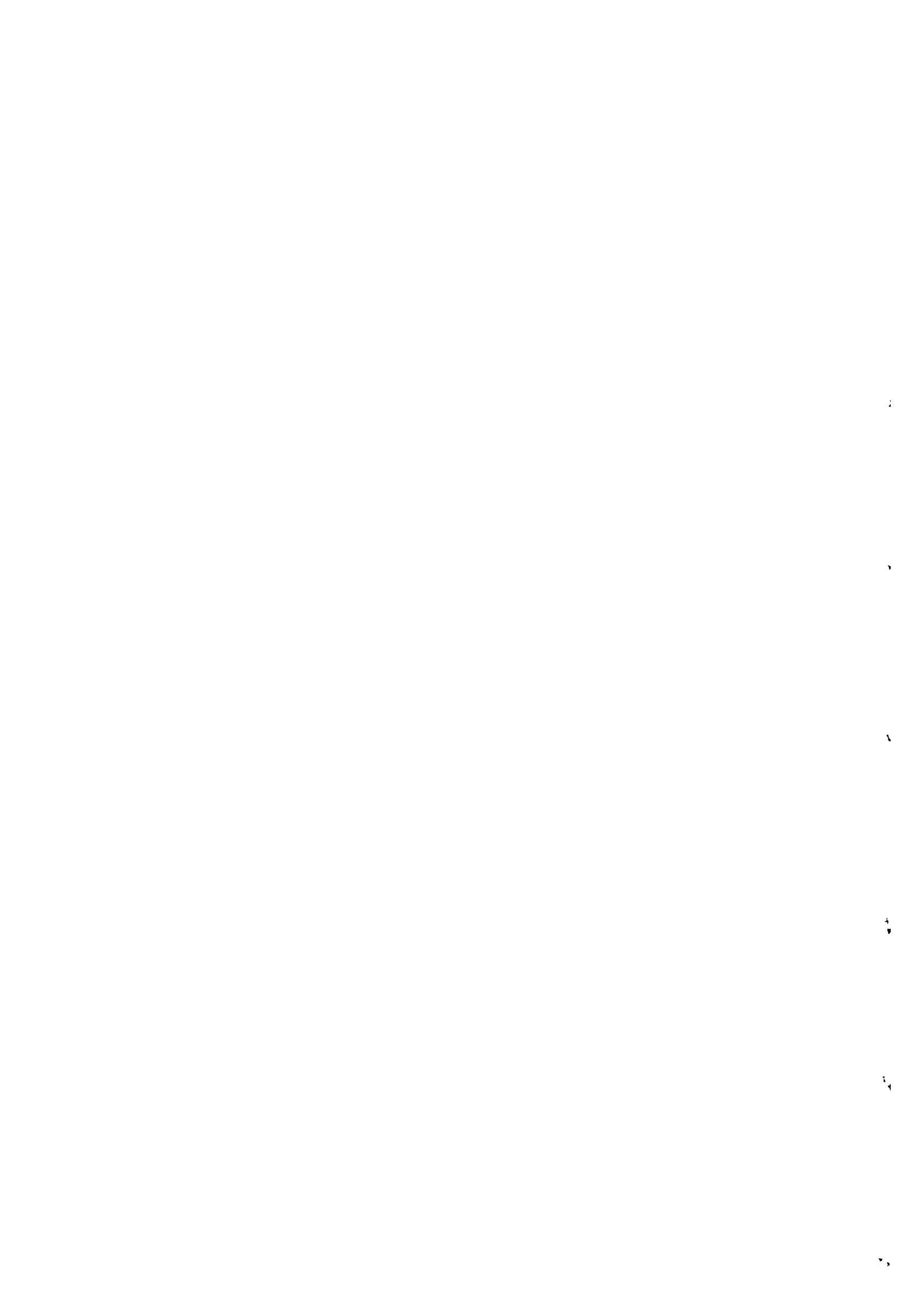
drawn up on behalf of the Committee on the Environment, Public Health and
Consumer Protection

on the proposal from the Commission of the European Communities to the
Council (Doc. 260/76) for a Directive on ~~toxic~~ and dangerous wastes

Rapporteur: Mr W. MÜLLER

PE 46.532/fin.

112.3



By letter of 6 August 1976 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on toxic and dangerous wastes.

The President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Budgets for its opinion.

On 27 September 1976 the Committee on the Environment, Public Health and Consumer Protection appointed Mr W. MÜLLER rapporteur.

It considered this proposal at its meetings of 27 September and 24 November 1976.

At its meeting of 24 November 1976 the committee unanimously adopted the motion for a resolution and the explanatory statement.

Present: Lord Bethell, vice-chairman and acting chairman; Mrs Kruchow, vice-chairman; Mr W. Müller, rapporteur; Mr Evans, Lady Fisher of Rednal, Mr Guerlin, Mr Kirk, Mr Noè, Mrs Squarcialupi, Mr Veronesi and Mr Walkhoff.

The opinion of the Committee on Budgets is attached.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	13

Opinion of the Committee on Budgets

A

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:

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 toxic and dangerous wastes

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 100 of the EEC Treaty (Doc. 260/76),
 - having regard to the report by the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Committee on Budgets (Doc. 446/76),
1. Emphasizes the need, in accordance with the European Communities' Programme of Action on the Environment of 22 November 1973², to implement a Community system of control over the disposal of toxic and dangerous wastes;
 2. Calls on the Commission to make regular use in future of the opportunities offered by the Agreement on information to prevent divergencies in the development of national legislation in the field of environmental protection;
 3. Approves the directive's aim of establishing, in accordance with specific principles and procedures, a system of controls and safeguard measures, which are meant to ensure that toxic and dangerous wastes are disposed of without endangering people or animals and without harming the environment;

¹ OJ No. C 194, 19.8.1976, p. 2

² OJ No. C 112, 20.12.1973, p. 28

4. Insists that in the near future the Commission should also submit proposals for directives on those wastes which are excluded from the scope of the present directive (e.g. hospital waste, explosive substances, animal and agricultural waste), thus closing a gap in Community legislation;
5. Calls on the Commission to submit as soon as possible a supplementary proposal specifying in a uniform manner the levels of concentration of toxic and dangerous substances above which wastes fall within the field of application of the directive;
6. Calls on the Commission to provide Community funds to promote research in certain major sectors for the purpose of developing new methods of transforming waste into raw materials or energy;
7. Requests the Commission to establish uniform methods of labelling toxic and dangerous wastes to ensure that they can be identified even after lengthy storage;
8. Considers it essential that the authorized disposal undertakings should be required to collect the toxic and dangerous wastes from the holders in order to avoid transport by inexperienced persons, as this could pose a serious threat to transport users and the environment;
9. Requests the Commission to include in its proposal for a directive provisions requiring the Member States to specify the locations in which toxic and dangerous wastes may be stored;
10. Insists that in case of emergency or grave danger the competent authorities must order that the dangerous waste be transferred to and, if need be, treated at a stipulated site;
11. Calls on the Commission to include the highly dangerous substance asbestos among the toxic and dangerous substances listed in Annex IA, since scientific research has shown that asbestos is highly carcinogenic;
12. Emphasizes the need for strict compliance with the period of 18 months allowed for the implementation of the measures provided for in the directive in order to avoid further delays in the practical application of harmonization provisions in this important field;
13. Requests the Commission to include the following amendments in its proposal pursuant to Article 149, paragraph 2, of the EEC Treaty.

Preamble unchanged

Recitals 1 and 2 unchanged

Recital 3

Whereas the essential objective of all provisions relating to toxic and dangerous waste disposal must be the protection of human health and the safeguarding of the environment against harmful effects caused by the collection of toxic and dangerous waste as well as its storage and tipping;

Recital 3

Whereas the essential objective of all provisions relating to toxic and dangerous waste disposal must be the protection of human and animal health and the safeguarding of the environment against harmful effects caused by the collection of toxic and dangerous waste as well as its storage and tipping;

The remaining recitals unchanged

Article 1 unchanged

Article 2

The following shall be excluded from the scope of this Directive:

- (a) radioactive waste;
- (b) animal carcasses and the following agricultural waste: faecal matter and other substances used in farming;
- (c) explosive substances;
- (d) hospital waste;
- (e) waste waters, with the exception of waste in liquid form;
- (f) gaseous effluents emitted into the atmosphere;
- (g) other waste covered by specific Community rules.

Article 2

The following shall be excluded from the scope of this Directive:

- (a) - (d) unchanged
- (e) waste waters, with the exception of toxic and dangerous waste in liquid form;
- (f) - (g) unchanged

Article 3 unchanged

Article 4

1. Member States shall take the necessary measures to ensure that toxic and dangerous waste is disposed of without endangering human health and without harming the environment, and in particular:

- without risk to water, air, soil and plants and animals;
- without causing a nuisance through noise or odours;
- without adversely affecting the countryside or places of special interest.

Article 4

1. Member States shall take the necessary measures to ensure that toxic and dangerous waste is disposed of without endangering human and animal health and without harming the environment, and in particular:

- without risk to water, air, soil and plants (two words deleted);
- unchanged
- unchanged

Paragraph 2 unchanged

Article 5 unchanged

Article 6 unchanged¹

Article 7 unchanged

Article 8

Any holder of toxic and dangerous waste who has not been granted an authorization pursuant to Article 7(1) shall place it at the disposal of the installations, establishments or undertakings referred to in Article 7(1).

Article 8

Any holder of toxic and dangerous waste who has not been granted an authorization pursuant to Article 7(1) shall keep it at the disposal of the installations, establishments or undertakings referred to in Article 7(1).

¹See however point 7 of the resolution

Article 9

Any holder of such waste who causes it to be disposed of by an installation, establishment or undertaking not authorized to dispose of it under Article 7(1) shall be jointly liable with that installation, establishment or undertaking, for any damage caused to a third party by the waste.

Article 9

Any holder of such waste who keeps it at the disposal of an installation, establishment or undertaking not authorized to dispose of it under Article 7(1) shall be jointly liable with that installation, establishment or undertaking, for any damage caused to a third party by the waste.

Articles 10 and 11 unchanged

Article 12

1. The competent authorities shall be required to draw up and keep up to date special plans for the disposal of toxic and dangerous waste. The plans shall cover in particular:

- specialized treatment centres and sites;
- technical requirements;
- the type and quantity of waste to be disposed of;
- the persons authorized to dispose of toxic and dangerous waste;
- the methods of disposal.

The plans may also cover the estimated costs of the disposal operations.

Article 12

1. The competent authorities shall be required to draw up and keep up to date special plans for the disposal of toxic and dangerous waste. The plans shall cover in particular:

- specialized treatment centres and sites;
- storage locations;
- technical requirements;
- the type and quantity of waste to be disposed of;
- the persons authorized to dispose of toxic and dangerous waste;
- the methods of disposal.

The plans must also cover the estimated costs of the disposal operations.

Paragraphs 2 and 3 unchanged

Article 13

In case of emergency or grave danger, the competent authorities may, after giving notice wherever possible to the holder, order that toxic and dangerous waste which is likely to constitute a threat to the population or the environment be transferred and, if need be, treated at a place to be stipulated by the said authorities.

Article 13

In case of emergency or grave danger, the competent authorities must, after giving notice wherever possible to the holder, order that toxic and dangerous waste which is likely to constitute a threat to the population or the environment be transferred and, if need be, treated at a place to be stipulated by the said authorities.

Articles 14 and 15 unchanged

Article 16

1. Every three years and for the first time eighteen months following the notification of this Directive, Member States shall draw up a situation report on the disposal of toxic and dangerous waste in their respective countries and shall forward it to the Commission. The Commission shall circulate this report to the other Member States.
2. The Commission shall report every three years to the Council and to the European Parliament on the application of this Directive.

Article 16

1. Every year in the first six years of application of this directive and at three-yearly intervals thereafter, Member States shall draw up a situation report on the disposal of toxic and dangerous waste in their respective countries and shall forward it to the Commission. The Commission shall circulate this report to the other Member States.
2. Every year in the first six years of application of this directive and at three-yearly intervals thereafter, the Commission shall report to the Council and to the European Parliament on the application of this directive.

Articles 17 to 19 unchanged

Article 20

Paragraphs 1 and 2 unchanged

Article 20

3. (a) The Commission shall adopt the measures envisaged where these are in accordance with the opinion of the committee;
 - (b) When the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is adopted, the Commission shall without delay, propose to the Council the measures to be adopted. The Council shall act by a qualified majority.
3. The Commission shall decide on measures for immediate implementation. However, if they are not in accordance with the opinion of the committee, the Commission shall notify the Council without delay. In this case the Commission may defer the application of the agreed measures until one month after their notification. The Council may, within one month, adopt a different decision by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the measures proposed shall be adopted by the Commission.

Article 21 unchanged

Article 22

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 22

Member States shall communicate to the Commission the texts of the provisions of national law which they intend to adopt in the field covered by this Directive, in good time for the Commission to deliver its opinion on them.

Article 23 unchanged

Annex I

A. Toxic and dangerous
substances or materials

Arsenic and its compounds
Mercury and its compounds
Cadmium and its compounds
Thallium and its compounds
Beryllium and its compounds
Chrome (Cr VI)
Lead and its compounds
Antimony and its compounds
Phenols
Cyanide, but excluding ferro-acid
ferricyanides
Isocyanates
Organo-halogen compounds from pro-
cessing, but excluding inert poly-
meric materials and other substances
covered elsewhere by the list of the
present directive or covered by other
directives.
Chlorinated solvents
Aromatic solvents
Biocides and phyto-pharmaceutical
substances
Tarry materials
Pharmaceutical substances from
processing
Peroxides, chlorates and azides
Ethers
Laboratory materials.

A. Toxic and dangerous
substances or materials

Asbestos and its compounds

Rest unchanged

B. unchanged

Annex II unchanged

EXPLANATORY STATEMENTI. GENERAL REMARKS

1. The present proposal for a directive is based on the programme of action of the European Communities on the environment of 22 November 1973. Chapter 7 of the programme reads in part¹:

'The most important problem for the Community is the elimination of wastes which, because of their toxicity, their non-degradability, their bulk, or for other reasons, require a solution extending beyond the regional framework and possibly even beyond national frontiers. Even if the harmful effects of the wastes do not extend beyond the immediate region, Community action may well become necessary if the elimination or re-use of the wastes are dependent on economic resources. If the solutions adopted give rise to differences in the production and distribution conditions of certain goods, these differences may have repercussions on the functioning of the common market and on international trade.'

2. A first step towards implementing chapter 7 'Action concerning wastes and residues' was taken with the Council Directive of 15 July 1975 on waste² (hereinafter called the 'outline Directive'). In its Resolution of 17 January 1975³ the European Parliament delivered its opinion on the relevant Commission proposal of 10 September 1974 (Doc. 289/74) on the basis of a report by Mr W. Müller (Doc. 383/74).

In point 11 of the Resolution Parliament stressed 'the need for the period of 18 months for the implementation of the measures provided for in the Directive to be strictly observed so that there will be no further delay in the practical application of harmonization provisions in the Community'. Unfortunately the Council has not followed the Commission's timetable, which was approved by Parliament, but has extended the period to 24 months (see Article 17 of the outline Directive). The proposed measures can therefore not take effect in the Community before July 1977.

¹ OJ No. C 112, 20.12.1973, p. 28

² OJ No. L 194, 25.7.1975, p. 47

³ OJ No. C 32, 11.2.1975, p. 36

3. The outline Directive lays down the fundamental provisions relating to the disposal and recovery of waste in accordance with the basic principles of the programme on the environment. Article 2(1) of the outline Directive provides that Member States may adopt specific rules for particular categories of waste. The present proposal, which is concerned with the implementation of a specific part of the action programme, is therefore based on the outline Directive. In accordance with the guidelines and principles laid down in the outline Directive the proposal deals with problems connected with the disposal of toxic and dangerous waste.

4. The Committee on the Environment has been informed that due to shortage of staff and other difficulties, the Commission did not apply 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 environment¹ to the procedure for the present proposal for a directive.

It considers this information agreement a very sensible one and calls upon the Commission to use its possibilities to the full in future, since it is likely to speed up legislative procedures in the Community.

5. The Commission's proposal has its legal basis in Article 100 of the EEC Treaty. The disparity between the national provisions governing the disposal of toxic and dangerous waste may in fact create unequal conditions of competition. Since the nationals of some Member States are subject to more stringent provisions, this may adversely affect the functioning of the Common Market. An approximation at Community level of the relevant legislation is therefore required to avoid or remove such distortions of competition.

¹ OJ No. C 9, 15.3.1973, p. 1.

6. The directive seeks to establish, in accordance with certain principles and procedures, a system of controls and safeguard measures meant to ensure that toxic and dangerous wastes are disposed of without endangering human and animal health and without harming the environment (see also Article 4, first indent).

Your committee welcomes this objective in principle. However it calls on the Commission to extend the third recital of the proposed directive to make clear that the fundamental aim of the directive is the protection of human and animal health. It is obvious that domestic animals and animals living in the open must also be protected against harmful effects resulting from the collection, tipping and storage of toxic and dangerous waste.

7. Your committee considers it debatable whether - as envisaged in the financial record sheet (see Annex to the proposal for a directive) - funds are required to implement the directive as early as 1977 in view of the fact that in accordance with Article 21 of the proposed directive, the Member States only have to enact the measures needed for its implementation 18 months after its notification. This means that the directive will take effect in mid-1978 at the earliest.

However, in its opinion, which is attached to this report, the Committee on Budgets has pointed out that 7,525 u.a. is an appropriate figure to take as a basis in calculating estimated expenditure for 1977.

Your committee therefore also approves the estimates set out in the financial record sheet for implementing the directive within the period of time envisaged by the Commission.

II. CONSIDERATION OF THE MAIN PROVISIONS OF THE PROPOSAL FOR A DIRECTIVE

8. Article 1 contains the definitions of 'waste', 'toxic and dangerous waste' and 'disposal'. It should be noted that in the context of the directive, 'disposal' covers not only the collection, sorting, transport, treatment and destruction of toxic and dangerous waste as well as its storage and tipping above or under ground, but also the transformation processes necessary for its re-use, recovery or recycling.

9. Under Article 2 the following are excluded from the scope of the directive:

- radioactive waste,
- animal carcasses and agricultural waste,
- explosive substances,
- hospital waste,
- waste waters, with the exception of waste in liquid form,
- gaseous effluents emitted into the atmosphere,
- other waste covered by specific Community rules.

Your committee welcomes this restriction but urges that after the necessary studies have been made, Community rules should also be adopted for those types of waste excluded from the present directive. This is in line with item 7 of the European Parliament Resolution of 17 January 1975 on the proposal for a directive on waste disposal¹, in which the Commission was requested 'to submit, as soon as possible, after the necessary studies have been made, proposals for directives on waste generated during the extraction of mineral resources, the working of quarries and in agriculture'.

Your committee also points out that waste disposal is becoming increasingly important in the context of a Community environmental protection policy. Care must be taken to ensure that, as provisions for clean water become stricter, greater emphasis is also laid on a rational system of waste disposal. Your committee therefore advocates a balanced approach to this important environmental sector.

Article 2 (e) states that waste waters are excluded from the scope of the directive, but not waste in liquid form. Since waste waters are basically nothing other than waste in liquid form, your committee feels that this provision should specify that toxic and dangerous waste in liquid form (as opposed to waste waters) is covered by the present directive.

¹ OJ No. C 32, 11.2.1975, p. 36

10. One of the most important Articles in the proposal for a directive is Article 3, which requires the Member States to encourage the recycling and processing of toxic and dangerous waste, the extraction of raw materials and possibly of energy therefrom and any other process for the re-use of these wastes. Furthermore, wherever possible, recovery or recycling should be applied as preferred methods of treatment of toxic and dangerous waste.

Your committee welcomes this objective and in order to achieve it, calls on the Commission to provide Community funds to promote research in certain sectors to develop new methods of transforming waste into raw materials or energy. The Community Research Centre in Ispra, which has already largely adapted to environmental research, would also have an important role to play.

11. Article 4 lays down the conditions governing the disposal of toxic waste. This must be effected without endangering human health and without harming the environment, and in particular

- without risk to water, air, soil and plants and animals,
- without causing a nuisance through noise or odours,
- without adversely affecting the countryside or places of special interest.

Furthermore it contains a prohibition on the abandonment, the uncontrolled discharge or deposit of dangerous waste as well as its consignment to installations not authorized to dispose of it under Article 7(1).

These provisions are logical and are therefore approved by your committee subject, however, to an amendment to the effect that in principle, waste must be disposed of without endangering human and animal health.

12. Under Article 5 the Member States are required to establish or designate the authorities responsible for the planning, organization, authorization and supervision of dangerous waste disposal operations. The outline Directive also contains a similar provision which your committee approved.

13. Under Article 6 toxic and dangerous waste

- must be collected, transported and stored separately from other matter and residues,
- its containers must be appropriately labelled, giving the nature, composition and quantity of the toxic waste,
- must remain identifiable.

It should be noted that the last provision aims at a permanent form of labelling. Your committee regrets that this important provision is too vague and therefore calls on the Commission to give it practical significance by establishing the method of labelling. It should be possible to do this fairly soon since at the beginning of 1976, the Commission

submitted a proposal for a directive on the provision of safety information at the workplace (Doc. 68/76), on which the European Parliament delivered a favourable opinion on the basis of a report by Mr Walkhoff (Doc. 217/76).

14. As in the outline Directive Article 7(1) states that undertakings who carry out the disposal of toxic waste on their own account and/or on behalf of third parties (waste disposal undertakings) must obtain an authorization from the competent authorities.

Article 7(2) lays down the sectors to which the authorization must refer (e.g. technical requirements, precautions to be taken, methods of disposal).

Paragraph 3 envisages the possibility that the authorizations

- may only be granted for a specified period,
- may contain conditions and obligations.

15. Article 8 deserves particular attention. Any holder of waste who does not have an authorization is obliged to place toxic waste at the disposal of the authorized waste disposal undertakings.

According to the Commission this provision leaves open the question of whether the waste is to be kept ready for collection or delivered to the disposal undertakings. This means that it would be for the national authorities to opt for one or other solution in the light of the existing situation in the country concerned.

Your committee, on the other hand, takes the view that these different solutions may lead to distortions of competition; uniform rules must therefore be laid down at Community level, pursuant to Article 100 of the EEC Treaty. The specific solution chosen must be dictated by considerations of environmental and health policy. To prevent the transport being effected by inexperienced persons and therefore also to prevent any danger to transport users or the environment, your committee insists that the disposal undertakings be required to collect the waste. They must therefore be informed by the holders, from whom they must collect the waste as soon as possible. The Commission is therefore urged to amend Article 8 as follows:

'Any holder of toxic and dangerous waste who has not been granted an authorization pursuant to Article 7(1) shall keep it at the disposal of the installations, establishments or undertakings referred to in Article 7(1)'.

10. One of the most important Articles in the proposal for a directive is Article 3, which requires the Member States to encourage the recycling and processing of toxic and dangerous waste, the extraction of raw materials and possibly of energy therefrom and any other process for the re-use of these wastes. Furthermore, wherever possible, recovery or recycling should be applied as preferred methods of treatment of toxic and dangerous waste.

Your committee welcomes this objective and in order to achieve it, calls on the Commission to provide Community funds to promote research in certain sectors to develop new methods of transforming waste into raw materials or energy. The Community Research Centre in Ispra, which has already largely adapted to environmental research, would also have an important role to play.

11. Article 4 lays down the conditions governing the disposal of toxic waste. This must be effected without endangering human health and without harming the environment, and in particular

- without risk to water, air, soil and plants and animals,
- without causing a nuisance through noise or odours,
- without adversely affecting the countryside or places of special interest.

Furthermore it contains a prohibition on the abandonment, the uncontrolled discharge or deposit of dangerous waste as well as its consignment to installations not authorized to dispose of it under Article 7(1).

These provisions are logical and are therefore approved by your committee subject, however, to an amendment to the effect that in principle, waste must be disposed of without endangering human and animal health.

12. Under Article 5 the Member States are required to establish or designate the authorities responsible for the planning, organization, authorization and supervision of dangerous waste disposal operations. The outline Directive also contains a similar provision which your committee approved.

13. Under Article 6 toxic and dangerous waste

- must be collected, transported and stored separately from other matter and residues,
- its containers must be appropriately labelled, giving the nature, composition and quantity of the toxic waste,
- must remain identifiable.

It should be noted that the last provision aims at a permanent form of labelling. Your committee regrets that this important provision is too vague and therefore calls on the Commission to give it practical significance by establishing the method of labelling. It should be possible to do this fairly soon since at the beginning of 1976, the Commission

submitted a proposal for a directive on the provision of safety information at the workplace (Doc. 68/76), on which the European Parliament delivered a favourable opinion on the basis of a report by Mr Walkhoff (Doc. 217/76).

14. As in the outline Directive Article 7(1) states that undertakings who carry out the disposal of toxic waste on their own account and/or on behalf of third parties (waste disposal undertakings) must obtain an authorization from the competent authorities.

Article 7(2) lays down the sectors to which the authorization must refer (e.g. technical requirements, precautions to be taken, methods of disposal).

Paragraph 3 envisages the possibility that the authorizations

- may only be granted for a specified period,
- may contain conditions and obligations.

15. Article 8 deserves particular attention. Any holder of waste who does not have an authorization is obliged to place toxic waste at the disposal of the authorized waste disposal undertakings.

According to the Commission this provision leaves open the question of whether the waste is to be kept ready for collection or delivered to the disposal undertakings. This means that it would be for the national authorities to opt for one or other solution in the light of the existing situation in the country concerned.

Your committee, on the other hand, takes the view that these different solutions may lead to distortions of competition; uniform rules must therefore be laid down at Community level, pursuant to Article 100 of the EEC Treaty. The specific solution chosen must be dictated by considerations of environmental and health policy. To prevent the transport being effected by inexperienced persons and therefore also to prevent any danger to transport users or the environment, your committee insists that the disposal undertakings be required to collect the waste. They must therefore be informed by the holders, from whom they must collect the waste as soon as possible. The Commission is therefore urged to amend Article 8 as follows:

'Any holder of toxic and dangerous waste who has not been granted an authorization pursuant to Article 7(1) shall keep it at the disposal of the installations, establishments or undertakings referred to in Article 7(1) '.

16. Article 9 deals with the question of liability if waste is placed at the disposal of unauthorized disposal undertakings. In this case the holders are jointly liable with the disposal undertakings for any damage caused to a third party by the toxic waste. The misleading words 'causes it to be disposed of' are used, which might imply that the holders are required to transport the waste to the headquarters of the disposal undertakings.

For the reasons given in point 15 the words 'causes it to be disposed of' must therefore be replaced by 'keep at the disposal of'.

17. Under Article 10 the disposal undertakings are obliged to treat the toxic waste without any discrimination on the grounds of origin.

This means that an undertaking located at one of the Community's internal frontiers may arrange for its waste to be treated in an establishment dealing with dangerous waste on the other side of the border. The waste disposal undertaking may therefore not refuse its services on the grounds that the waste came from another Member State.

Your committee approves this provision.

18. Article 11 deals with the question of cost on the basis of the 'polluter pays principle.' The cost of disposing of toxic waste shall be borne by

- the holder who has waste handled or disposed of by a disposal undertaking,
and/or
- the previous holders or the producers of the product from which the waste came.

This raises the question as to what happens when the two contracting parties disagree about cost allocation. Surely it would be better if each were obliged to bear one half of the actual cost? Some other specific ruling could also be considered.

In this connection the Commission explains that Article 11 leaves open the possibility of introducing national legislation reallocating the cost to the holder and/or the producer of the waste, depending on the various contracts and assurances agreed under national law.

On the basis of this explanation your committee approves the proposed text.

19. Under Article 12(1) the competent authorities are required to draw up and keep up to date special plans for the disposal of dangerous waste. These plans 'may' also cover the estimated costs of the disposal operations.

It is incomprehensible why the cost estimates are not made compulsory. This would be in the interests of the coordination which is undoubtedly needed between both the individual authorities and the Member States. The committee therefore calls on the Commission to amend Article 12(1), third sentence, as follows: 'The plans must also cover the estimated costs of the disposal operation'.

In any event, if the optional solution were chosen, the disputed sentence should logically be deleted since it is superfluous; for in the absence of an explicit prohibition the authorities are obviously free to draw up cost estimates if they feel it to be expedient.

In addition, your committee feels that it is imperative for the Member States to be required to specify the locations at which toxic and dangerous wastes may be stored. Only in this way will the necessary safety be ensured, as well as an adequate degree of protection. Article 12(1) must therefore be amended accordingly. This request has also been incorporated in the resolution in point 9.

Under Article 12(2) the Member States are required to publish the special plans and forward them to the Commission.

Finally the Member States and the Commission are required to carry out a comparative examination of the special plans, with a view to ensuring maximum coordination at national and Community level with reference to their cross-frontier effects (Article 12(3)). A final but not insignificant point in connection with this welcome objective is that, as already indicated, the preparation of cost estimates must be made compulsory.

20. Under Article 13 the competent authorities may, in case of emergency or grave danger, order that dangerous waste which is likely to constitute a threat to the population or the environment be transferred and, if need be, treated at a stipulated place.

Your committee again objects to an optional solution to the problem. If there is really impending danger, the authorities are undoubtedly obliged to take immediate action. The word 'may' should therefore be replaced by 'must'.

21. Article 14 requires any person who produces, holds and/or disposes of toxic and dangerous waste to keep a register containing certain details and to make this information available at the request of the competent authorities. When the waste is transported in the course of its disposal, an identification form is required, as set out in Annex II.

Documentary evidence of the disposal of toxic waste shall be kept for at least five years.

22. Article 15, which deals with the inspection and supervision by the competent authorities, is extremely important. Supervision applies to any person producing, holding and disposing of dangerous waste. They are required to grant to representatives of the supervisory authorities freedom of access to carry out any required examinations, inspections or enquiries, to take samples and to gather any necessary information concerning waste.

23. Under Article 16, every three years and for the first time 18 months following the notification of the directive, the Member States shall draw up a report for the Commission on the disposal of dangerous waste in their territory. The Commission shall circulate those reports to the other Member States.

It should be pointed out that in its proposal for an outline Directive, the Commission envisaged that these reports should be drawn up every two years. However, since we are here concerned not with ordinary waste, but with toxic and dangerous waste, your committee insists that the reports should be drawn up every year for the first six years of application of the directive and at three-yearly intervals thereafter, and that accordingly the Commission should report to the Council and the European Parliament on the application of the directive at the same intervals. Article 16(1) and (2) must therefore be amended accordingly.

24. Article 17 contains the self-evident statement that the Annexes (Annexes I and II) shall form an integral part of the directive.

25. Under Article 18 such amendments as are necessary for adapting the Annexes to technical progress shall be adopted in accordance with the procedure laid down in Article 20 under the auspices of a Committee on Implementing Rules, which is to be set up (see also item 26 of the explanatory statement). It is further stated that in adapting Annex I (list of toxic and dangerous substances or materials) there shall be taken into account the immediate or long term hazard to man and the environment presented by other wastes by reason of their toxicity, persistence, bioaccumulative characteristics, physical and chemical form and/or quantity.

26. Article 19 provides for the setting up of a Committee on Implementing Rules, entitled 'Committee on Adaptation to Technical Progress of the Directive on toxic and dangerous waste'.

Your Committee on the Environment wondered whether, with a view to rationalization and economy, it would be possible to allocate the proposed responsibilities of this ad hoc committee to the Committee on Waste Management set up by the Commission Decision of 21 April 1976¹. However the Commission pointed out that special technical responsibilities were to be allocated to an ad hoc committee having the necessary expert knowledge and which, unlike the Committee on Waste Management, which only exercises an advisory function, can take binding decisions.

Your Committee on the Environment agreed with this reasoning and therefore approved Article 19 of the proposal for a directive.

27. Article 20 establishes the working procedure of the new committee which the Commission proposes to set up.

In accordance with the European Parliament's previous attitude to the institutional aspect of the Committees on Implementing Rules, your committee insists on the customary amendments to the working procedure and urges the Commission to alter Article 20 accordingly.

The Commission's representative has stated that he accepts this amendment and pointed out that the stricter working procedure suggested by your committee would be extremely beneficial, particularly in the case of the present directive, where in the nature of things rapid decisions are called for.

28. Under Article 21 the Member States must pass internal legislation to implement the directive within 18 months of its notification.

Since this deadline for the application of the directive is relatively generous, your committee stresses that it must be strictly observed so that there will be no further delay in the practical application of harmonization provisions in this important field throughout the Community. In any event, your committee rejects the extension of the deadline to 24 months, as proposed in the outline Directive on the basis of the Council Decision.

29. Article 22 requires the Member States to communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

This obligation to provide information does not go far enough; it must apply to all provisions of national law and moreover must be carried out regularly, so that the Commission can if necessary act as coordinator.

In accordance with numerous similar opinions previously delivered by Parliament, your committee therefore urges the Commission to amend Article 22 as follows:

¹ OJ No. L 115, 1.5.1976, p. 73.

'The Member States shall communicate to the Commission the text of the (one word deleted) provisions of national law, which they intend to adopt in the field covered by this directive, in good time for the Commission to deliver its opinion on them'.

30. Annexes I and II have already been dealt with in the explanatory statement in connection with certain Articles of the proposed directive. The same applies to the attached financial record sheet (see also items 7 and 26 of the explanatory statement).

31. However, your committee has established that the list of toxic and dangerous substances contained in Annex I A is incomplete. It does not include the highly dangerous substance asbestos, although it has long been known from scientific research that asbestos

- (a) leads to asbestosis, an incurable lung disease contracted by inhaling asbestos particles, and
- (b) is highly carcinogenic.

This is also confirmed by the findings on health protection and industrial safety in the metal industry of the World Conference of the International Metalworkers' Federation, held in Oslo from 16 to 19 August 1976. For example it was pointed out that in the present state of knowledge, the effect of asbestos on man is clearly carcinogenic. Moreover, it is expected that legislation will be proposed in the United Kingdom to reduce considerably human contact with asbestos.

Your committee therefore calls on the Commission to include the highly dangerous substance asbestos in the list of toxic and dangerous substances or materials, even though its toxic effect on water and water organisms has not yet been clearly proved. It is pointless merely to do this in the course of the adaptation to technical progress envisaged in Article 18(2). The present state of knowledge about the danger of asbestos is sufficiently advanced to render any further hesitation irresponsible.

Your committee has therefore also included its recommendation in item 11 of the resolution.

32. According to Annex I B it is sufficient for certain substances or materials to be contaminated by toxic and dangerous substances to bring them within the field of application of the directive. Furthermore, Article 1(b) states that 'toxic and dangerous waste' includes any waste containing the substances or materials listed in Annex I (arsenic, mercury, etc.) It is sufficient therefore for these dangerous substances to be present in very small quantities to bring the waste in question within the scope of the directive.

Your committee considers it essential, however, for the directive also to specify the levels of concentration of toxic substances above which the waste falls within the field of application of the directive. Provisions of this kind have been enacted in the legislations of some Member States or are being contemplated.

Your committee has included this request in point 5 of the resolution.

OPINION OF THE COMMITTEE ON BUDGETS

Letter from the chairman of the committee to the chairman of the Committee on the Environment, Public Health and Consumer Protection.

Brussels, 25 November 1976

Dear Mr Chairman,

At its meeting of 23-25 November 1976 the Committee on Budgets considered the financial aspects of the proposal from the Commission of the European Communities to the Council for a directive on toxic and dangerous wastes (Doc. 260/76).

The committee noted the statement in the financial record sheet annexed to the draft directive that the directive proposed the setting up of an ad hoc Committee to bring the lists of particularly harmful substances into line with technical progress.

The committee felt that 7,525 u.a. was a suitable figure to take as a basis in calculating estimated expenditure for 1977. It also approved the plan to include annually in future budgets appropriations along the lines of the forecasts for 1977, since the committee to be set up would be operating on a permanent basis, and delivered a favourable opinion on the financial aspects of the proposal.

Yours sincerely,

(sgd) Erwin LANGE

Present: Mr Artzinger, acting chairman; Mr Albertini, Lord Bessborough, Mr Brugger, Mr Clerfayt, Mr Früh, Mr Gerlach, Mr Haase, Mr Lautenschlager, Mr Mursch, Mr Suck and Mr Yeats.

