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Committee on Agriculture

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DRAFT OPINION

of the Committee on Agriculture

for the Committee on the Environment, Public Health and Consumer Policy

on the proposal for a European Parliament and Council directive on the protection of groundwater against pollution
(COM(2003)0550 – C5-0447/2003 – 2003/0210(COD))

Draftsman: Jan Mulder

SHORT JUSTIFICATION

On 16 March 2004, the Committee on Agriculture and Rural Development adopted its opinion on protection of groundwater against pollution with 17 votes to 0 and 1 abstention. Since the legislative procedure in Parliament was not concluded during the 5th term, a new opinion needs to be adopted by the Committee on Agriculture. The draftsman resubmits the opinion as adopted by the previous Committee and asks for it to be confirmed with no further changes.

Some, primarily technical, aspects of groundwater quality assessment were left over when the Water Framework Directive¹ was adopted in 2000.

The proposed Groundwater Directive aims at filling these gaps in covering, *inter alia*, definitions of "good groundwater chemical status" and "criteria for the identification of significant and sustained upward trends and the definition of starting points for trend reversals".

The draftsman welcomes the proposal because it provides a response to problems arising from variations in the chemical composition of groundwater in the Community, according to geographical and geological differences, and to the fact that monitoring data have been lacking.

Main features of the suggested amendments

The draftsman acknowledges the fact that the Commission intends to adapt the groundwater directive further, according to the experience gained from the Member States in applying the present proposal. Therefore, the draftsman does not wish to introduce common threshold values for other substances than those already mentioned in Annex I. However, it is important to ensure that different threshold values do not lead to unacceptable differences in the protection level or to the distortion of trade and competition in the Community. Such negative effects should be analysed and acted upon according to specific criteria.

The draftsman also stresses the importance of similar measurement techniques across the Union. For water quality policy to be effective, these measurement techniques should be approved by the Commission, taking into account their effectiveness in respect of the goals of the directive and the functioning of the Internal Market. To this effect a new article is introduced.

The draftsman suggests that the Commission should analyse whether the Nitrates Directive² can be repealed from 2009. When fully implemented, the combined effects of the Water Framework Directive and the proposed Groundwater Directive could render the Nitrates Directive superfluous. Moreover, that directive has proved highly problematic in several respects:

- The directive prescribes a maximum amount of Nitrogen of animal origin to be applied per hectare (170 kg) but does not take into account climatic or soil conditions,

¹ Directive 2000/60/EC, OJ L 327, 22.12.2000, p. 1.

² Directive 1991/676/EEC, OJ L 375, 31.12.1991, p. 1.

nor non-animal sources of Nitrogen such as fertilisers;

- Both subsidiarity and efficiency are better served if the goal (50 mg N/l, not even mentioned in the Nitrates Directive) is defined at Community level, rather than the way to achieve the goal (170 kg N/ha);
- The directive does not define methods to measure water pollution. Hence, the directive has been implemented markedly differently in the Member States;
- The directive does not seem to have been very successful, since the Commission has taken twelve of fifteen Member States to Court over wrong or lacking implementation.

It is essential to ensure good compliance with drinking water standards as defined by the Drinking Water Directive¹. It is suggested, therefore, to apply pesticides/metabolites values below 0.1 µg/l, where this is necessary to meet the drinking water standard. A total concentration of 0.5 µg/l, in line with existing legislation, is also suggested.

Finally, the draftsman wishes to stress the need for full engagement of the European Parliament and the Council through legislation when it comes to amending the minimum list in Annex III. This crucial part of the proposed directive should not be subject to modifications by way of committeeology.

AMENDMENTS

The Committee on Agriculture calls on the Committee on the Environment, Public Health and Consumer Policy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ²	Amendments by Parliament
Amendment 1 Title	
Proposal for a directive of the European Parliament and of the Council on the protection of groundwater against pollution	Proposal for a directive of the European Parliament and of the Council on the protection of groundwater against <i>chemical</i> pollution

¹ Directive 98/83/EC, OJ L 330, 5.12.1998, p. 32.

² OJ C ..., , p.

Justification

The proposal deals with chemical pollution of groundwater only. This should be specified in the title of the directive.

Amendment 2

Recital 1

(1) Groundwater is a valuable natural resource which should be protected from pollution in its own right.

(1) Groundwater is a valuable natural resource which should be protected from **chemical** pollution in its own right.

Amendment 3

Recital 5

(5) Quality standards, **threshold values**, and assessment methods should be developed in order to provide criteria for the assessment of the chemical status of bodies of groundwater.

(5) Quality standards and assessment methods should be developed in order to provide criteria for the assessment of the chemical status of bodies of groundwater.

Justification

Rewording in line with the amendment to Article 2, paragraph 1.

Amendment 4

Recital 5 a (new)

(5a) The impact on the environmental protection level and on the functioning of the Internal Market of different threshold values applied by the Member States should be analysed.

Amendment 5

Recital 8 a (new)

(8a) Since Directive 2000/60/EC and this Directive will provide sufficient quality standards for nitrates, it should be analysed whether Directive 91/476/EEC may be repealed from 31 December 2008.

Justification

This Directive sets a European threshold for the concentration of nitrates in groundwater in the interests of quality (50 mg/l), whereas the Nitrates Directive prescribes a means (170 kg of N of animal origin / ha) of achieving the goal. Prescribing of means rather than goals should be avoided.

Amendment 6 Article 1, paragraph 1

This Directive establishes specific measures as set out in Article 17(1) and (2) of Directive 2000/60/EC in order to prevent and control groundwater pollution. These measures include in particular:

This Directive establishes specific measures as set out in Article 17(1) and (2) of Directive 2000/60/EC in order to prevent and control **chemical** groundwater pollution. These measures include in particular:

Amendment 7 Article 1, paragraph 2

This Directive **also establishes a requirement** to prevent or limit **indirect discharges** of pollutants into groundwater.

This Directive **specifies the requirement of Article 4(1)(b)(i) of Directive 2000/60/EC** to prevent or limit **the input** of pollutants into groundwater **and the deterioration of the status of all bodies of groundwater**.

Justification

The Directive should not introduce a new concept of 'indirect discharges'. The Water Framework Directive (WFD) only distinguishes between the general case of 'input' and the specific case of 'direct discharge' of pollutants into groundwater.

The Directive should clarify the WFD obligations on substances 'to prevent' and substances 'to limit' and provide EU measures for achieving the prevention obligations in cases of European relevant pollutants. It should also clarify the WFD obligation of preventing the deterioration of chemical groundwater status. While some read this obligation as maintaining the status quo, others read it as preventing deterioration from good to poor chemical status.

Amendment 8 Article 2, paragraph 1

1. '**threshold value**' means a concentration

1. '**quality standard**' means a

limit for a pollutant in groundwater, exceedance of which would cause a body of groundwater or groundwater bodies to be characterised as having poor chemical status.

concentration limit for a pollutant in groundwater, **based on natural background concentrations**, exceedance of which **limit** would cause a body of groundwater or groundwater bodies to be characterised as having poor chemical status.

Justification

The same definition should be used in this directive as in Directive 2000/60/EC. Quality standards should be linked to natural background concentrations.

Amendment 9 Article 2, paragraph 2

2. ‘significant and sustained upward trend’ means any statistically significant increase of concentration of a pollutant as compared to concentrations measured at the start of the monitoring programme referred to in Article 8 of Directive 2000/60/EC, taking into consideration quality standards **and threshold values**.

2. ‘significant and sustained upward trend’ means any statistically significant increase of concentration of a pollutant as compared to concentrations measured at the start of the monitoring programme referred to in Article 8 of Directive 2000/60/EC, taking into consideration quality standards.

Justification

Rewording in line with the amendment to Article 2, paragraph 2.

Amendment 10 Article 4, title and paragraph 1

Threshold values

1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, **Member States** shall, by 22 December 2005, establish **threshold values** for each **of the pollutants, which within their territory have been identified as contributing** to the characterisation of bodies or group of bodies of groundwater as being at risk. **Member States shall as a minimum establish**

Quality standards

1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, **the Commission** shall, by 22 December 2005, establish **quality standards** for each **pollutant which contributes** to the characterisation of bodies or group of bodies of groundwater as being at risk.

threshold values for the pollutants referred to in parts A.1 and A.2 of Annex III to this Directive. These threshold values shall inter alia be used for the purposes of carrying out the review of groundwater status as provided for in Article 5.2 of Directive 2000/60/EC.

Those ***threshold values*** can be established at the national level, at the level of the river basin district or at the level of a body or group of bodies of groundwater.

Those ***quality standards*** can be established at the national level, at the level of the river basin district or at the level of a body or group of bodies of groundwater. ***If a body of groundwater or group of bodies of groundwater contains natural levels of pollutants for which a quality standard pursuant to Annex I exists or an additional national quality standard has been established pursuant to Annex II, which natural levels exceed these standards, the natural levels shall be taken as the quality standard.***

Justification

It is necessary to ensure that quality standards are uniform throughout the EU and that different quality standards do not apply in the individual Member States. If, however, a body of groundwater or group of bodies of groundwater contains natural levels of pollutants for which a quality standard pursuant to Annex I exists or an additional national quality standard has been established pursuant to Annex II, which natural levels exceed these standards, the natural levels should be taken as the quality standard.

Amendment 11 Article 4, paragraph 2

2. At the latest by 22 June 2006, Member States shall provide the Commission with a list of all pollutants ***for which they have established threshold values***. For each pollutant on the list, Member States shall provide the information set out in part B of Annex III to this Directive.

2. At the latest by 22 June 2006, Member States shall provide the Commission with a list of all pollutants ***whose quality standard, on account of their natural concentration in a body of groundwater or group of bodies of groundwater, exceeds the values for which a quality standard pursuant to Annex I exists or an additional national quality standard has been established pursuant to Annex II***. For each pollutant on the list, Member States shall provide the information set out in part B of Annex III to this Directive.

Justification

The sentence complements the requirement in Amendment 2 and introduces a necessary provision concerning natural levels in groundwater - 'background values'. As it is not possible for the widely differing levels which exist in Europe to be taken into account in establishing the quality standards, there is a need to indicate what is to be done if natural levels already exceed the quality standards. If such a case occurs in a body of groundwater or group of bodies of groundwater, the high natural levels should be taken as the quality objective.

Amendment 12

Article 4, paragraph 3, subparagraph 1

3. On the basis of the information provided by Member States in accordance with paragraph 2, the Commission shall publish a report, accompanied, if appropriate, by a proposal for a directive amending Annex I to this Directive.

3. On the basis of the information provided by Member States in accordance with paragraph 2, the Commission shall publish a report **before 2008** accompanied, if appropriate, by a proposal for a directive amending Annex I to this Directive.

Justification

The Commission should be given a clear deadline for taking action on the information provided under paragraph 2.

Amendment 13

Article 4, paragraph 3, subparagraph 1 a (new)

The report shall at least analyse the following aspects:

- existence of quality standards in the national legislation of the Member States;***
- differences in quality standards applied by the Member States;***
- environmental consequences of differences in quality standards applied by the Member States;***
- direct or indirect negative impact on the Internal Market of differences in quality standards applied by the Member States.***

Amendment 14

Article 4, paragraph 3, subparagraph 2 a (new)

When the analysis mentioned in this Article reveals considerable divergence

between Member States, the Commission shall make a proposal to further harmonise the quality standards applied by Member States.

Justification

If the different quality standards applied by the Member States prove to have a negative impact on the environment or the economic level playing field in the Community, legislation should be adopted in order to prevent it.

Amendment 15
Article 5 a (new)

Article 5 a

Measurement methods

- 1. Each Member State shall submit to the Commission a complete description of measurement methods for each of the substances for which a Community-wide or national quality standard has been set.***
- 2. The Commission shall determine whether the measurement methods are fully comparable and whether differences between methods may lead to distortions likely to cause faulty or unequal application of this Directive in the Community.***
- 3. Based on its findings, the Commission shall approve or reject the measurement methods submitted by the Member States.***
- 4. If the Commission rejects the measurement methods submitted by a Member State, that Member State shall submit revised measurement methods for approval by the Commission according to the provisions in paragraphs 1-3 of this Article.***
- 5. Approved measurement methods shall be operational in all Member States by the date specified in Article 8 of Directive 2000/60/EC.***

Justification

Agreement on techniques for measurement of groundwater pollution is essential for equal and fair transposition of this Directive. Each Member State should measure the pollution

according to comparable threshold values. The Commission should therefore be given the authority to approve measurement techniques, provided that these are equivalent with regard to environmental goals.

Amendment 16
Article 6, subparagraph 1

In addition to the basic measures set out in Article 11(3) of Directive 2000/60/EC, Member States shall ensure that the programme of measures for each river basin district includes the prevention of indirect discharges to groundwater of any of the pollutants referred to in points 1 to 6 of Annex VIII to that Directive.

In addition to the basic measures set out in Article 11(3) of Directive 2000/60/EC, Member States shall ensure that the programme of measures for each river basin district includes the prevention of ***effective*** indirect discharges to groundwater of any of the pollutants referred to in points 1 to 6 of Annex VIII to that Directive.

Justification

Active prevention or reduction measures against very small quantities of pollutants may, in some cases, be harmful to the environment rather than improve and protect environmental quality. For example this may occur in delta regions, where very small quantities of these substances, present on the bed of a river or another water body, may filter through to groundwater bodies. Whereas the term "prevention" in this article should not be undermined, the unwanted consequences from such obligations should be prevented.

Amendment 17
Article 6, paragraph 2 a (new)

Fertilisers and plant treatment products which are used in accordance with good agricultural practice, and the use of fertiliser produced on the same farm where it is used, shall not be deemed to constitute indirect discharges into a body of groundwater.

Justification

This directive does not define the concept 'indirect discharge'. Discharges of fertilisers and plant treatment products in accordance with good agricultural practice promote the healthy growth of crops. This amendment is intended to provide a secure basis for agricultural planning in the EU.

Amendment 18
Article 6, paragraph 2 b (new)

Without prejudice to the quality standards from other fields for the protection of groundwater, this provision shall not apply to discharges of:

(a) domestic effluent from house sewerage plants belonging to isolated dwellings;

(b) other pollutants in such small quantities and concentrations that there is no possible danger that the quality of groundwater will be impaired.

Justification

Directive 80/86/EEC already contains the above-mentioned exemption provisions. On grounds of subsidiarity, it is not justifiable for an EC directive to concern itself with all emitters, however small. In 2013, when the existing Directive 80/86/EEC ceases to apply, gaps will arise in the legislation unless this text is included.

Amendment 19
Article 7 a (new)

Article 7 a

Report on the repeal of Directive 91/676/EEC

After implementation of this Directive and before 2008, the Commission shall submit a report to the Parliament and the Council analysing whether Directive 91/676/EEC may be repealed on 31 December 2008.

Before 31 December 2008, the provisions set out in Directive 91/676/EEC on the designation and revision of vulnerable zones shall be incorporated into Directive 2000/60/EC by way of amendment.

The Member States shall ensure that the programme of measures referred to in Article 11 of Directive 2000/60/EC includes measures which are appropriate for the attainment of the objective set out in Article 1 of Directive 91/676/EEC.

The Commission shall take all necessary measures and, where appropriate, submit proposals to ensure that the provisions of this Article are properly applied.

Justification

In 2009, the Programmes of measures to improve water quality, as required by Article 11 of the Water Framework Directive (Directive 2000/60/EC) are to be in place. Among other things, these programmes aim to ensure that groundwater quality standards are met. With the implementation of that directive and the nitrate limit specified in Annex I of this directive on groundwater quality, the 'Nitrates Directive' could possibly be repealed. The new package of legislation on water will ensure that the quality goals are reached, leaving proper implementation up to the Member States.

Amendment 20 Article 8

Annexes II **to** IV to this Directive may be adapted to scientific and technical progress in accordance with the procedure referred to in Article 21(2) of Directive 2000/60/EC, considering the period of reviews and updating of the river basin management plan, as referred to in Article 13(7) of Directive 2000/60/EC.

Annexes II **and** IV to this Directive may be adapted to scientific and technical progress in accordance with the procedure referred to in Article 21(2) of Directive 2000/60/EC, considering the period of reviews and updating of the river basin management plan, as referred to in Article 13(7) of Directive 2000/60/EC.

Justification

Considering the importance of the list of substances, changes to Annex III should fall within the scope of a legislative procedure, involving both Parliament and Council.

Amendment 21 Annex I, first column, last row

Active ingredients in pesticides, including their relevant metabolites, degradation and reaction products

(Does not affect the English version)

Justification

In some versions (SV, FR, ES, PT) the word "relevant" (meaning "significant") has been omitted. It is crucial that this term be correctly implemented in all versions of the text, since the Commission applies a precise definition for "relevant metabolites" in the guidelines to Directive 91/414/EC¹.

Amendment 22 Annex I, last column, last row

¹ OJ L 230 , 19.8.1991, p.1.

The quality standard applies to all bodies of groundwater, except where drinking water standards for pesticides and their relevant metabolites are more stringent than 0.1 µg/l. For these areas, drinking water standards apply. The total concentration of pesticides and their metabolites in all groundwater bodies shall not exceed 0.5 µg/l.

Justification

Threshold values for pesticides/metabolites in drinking water might be less than 0.1 µg/l. In such cases, the more stringent standard should apply. Directive 98/83/EC sets a threshold value for the sum of pesticides and related substances. This threshold should be included in this Directive as well, in order to ensure proper protection of the groundwater.

Amendment 23
Annex I, footnote 22

²² Compliance with the standards shall be based on a comparison with the arithmetic means of the monitoring values ***at each of*** the sampling points in the body or group of bodies of groundwater characterised as being at risk pursuant to the analysis to be carried out under Article 5 of Directive 2000/60/EC.

²² Compliance with the standards shall ***be assessed within a period to be determined in accordance with the procedure laid down in Article 21(2) of Directive 2000/60/EC, and*** be based on a comparison with the ***weighted*** arithmetic means of the monitoring values ***from all*** the sampling points ***per representative zone*** in the body or group of bodies of groundwater ***under consideration*** characterised as being at risk pursuant to the analysis to be carried out under Article 5 of Directive 2000/60/EC.

Justification

This amendment seeks to clarify the text. It is important for monitoring to be carried out per representative zone in a body of groundwater, because differences may be significant, even within the same body of groundwater. The period within which monitoring must take place needs to be stated more precisely.

Amendment 24
Annex III, title

***THRESHOLD VALUES FOR
GROUNDWATER POLLUTANTS***

***QUALITY STANDARDS FOR
GROUNDWATER POLLUTANTS***

Justification

This amendment follows from the proposed amendment to Article 4.

Amendment 25
Annex III, Part A.1, title

MINIMUM LIST OF SUBSTANCES OR IONS, WHICH MAY BOTH OCCUR NATURALLY AND AS A RESULT OF HUMAN ACTIVITIES, FOR WHICH **MEMBER STATES ARE** REQUIRED TO ESTABLISH **THRESHOLD VALUES** IN ACCORDANCE WITH ARTICLE 4.2

MINIMUM LIST OF SUBSTANCES OR IONS, WHICH MAY BOTH OCCUR NATURALLY AND AS A RESULT OF HUMAN ACTIVITIES, FOR WHICH **THE COMMISSION IS** REQUIRED TO ESTABLISH **QUALITY STANDARDS** IN ACCORDANCE WITH ARTICLE 4.2

Justification

This amendment follows from the proposed amendment to Article 4.

Amendment 26
Annex III, Part A.1, footnote 25

²⁵ This list should be complemented by **Member States** for all pollutants which have been identified to characterise bodies of groundwater at being at risk following the analysis carried out under Article 5 of Directive 2000/60/EC.

²⁵ This list should be complemented by **the Commission** for all pollutants which have been identified to characterise bodies of groundwater at being at risk following the analysis carried out under Article 5 of Directive 2000/60/EC.

Justification

This amendment follows from the proposed amendment to Article 4.

Amendment 27
Annex III, Part A.2, title

MINIMUM LIST OF MAN-MADE SYNTHETIC SUBSTANCES FOR WHICH **MEMBER STATES ARE** REQUIRED TO ESTABLISH **THRESHOLD VALUES** IN ACCORDANCE WITH ARTICLE 4.2

MINIMUM LIST OF MAN-MADE SYNTHETIC SUBSTANCES FOR WHICH **THE COMMISSION IS** REQUIRED TO ESTABLISH **QUALITY STANDARDS** IN ACCORDANCE WITH ARTICLE 4.2

Justification

This amendment follows from the proposed amendment to Article 4.

Amendment 28
Annex III, Part B, title

PART B: INFORMATION TO BE PROVIDED BY MEMBER STATES WITH REGARD TO THE LIST OF POLLUTANTS FOR WHICH **THRESHOLD VALUES** HAVE BEEN DETERMINED

PART B: INFORMATION TO BE PROVIDED BY MEMBER STATES WITH REGARD TO THE LIST OF POLLUTANTS FOR WHICH **QUALITY STANDARDS** HAVE BEEN DETERMINED

Justification

Rewording required for consistency with the amendment to Article 2, paragraph 2.

Amendment 29
Annex III, Part B.2

2. INFORMATION ON THE ESTABLISHMENT OF **THRESHOLD VALUES**

2.1 The **threshold values**, whether they apply at the national level, or at the level of the river basin district, or for individual bodies or groups of bodies of groundwater.

2.2 The relationship between the **threshold values** and, in the case of naturally occurring substances, the observed background levels.

2.3 The manner in which economic and social costs were taken into account in establishing the **threshold values**.

2. INFORMATION ON THE ESTABLISHMENT OF **QUALITY STANDARDS**

2.1 The **quality standards**, whether they apply at the national level, or at the level of the river basin district, or for individual bodies or groups of bodies of groundwater.

2.2 The relationship between the **quality standards** and, in the case of naturally occurring substances, the observed background levels.

2.3 The manner in which economic and social costs were taken into account in establishing the **quality standards**.

Justification

Rewording required for consistency with the amendment to Article 2, paragraph 2.

Amendment 30
Annex IV, point 1.2 (a)

(a) the assessment shall be based on arithmetic mean values of the mean values of the **individual** monitoring points in each **bodies** or **groups** of bodies of groundwater **bodies**, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency;

(a) the assessment shall be based on **weighted** arithmetic mean values of the **weighted** mean values of the **corresponding** monitoring points in each **comparable body** or **group** of **comparable** bodies of groundwater, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency;

Justification

This amendment seeks to make the text more specific and prevent any confusion.

Amendment 31
Annex IV, point 1.2 (b)

in order to avoid bias in trend identification, all measurements below the limit of quantification shall be **eliminated for the calculation**.

in order to avoid bias in trend identification, all measurements below the limit of quantification shall be **treated according to sound and recognised statistical principles**.

Justification

Eliminating all measurements below the limit of quantification is not scientifically correct and does not avoid biased results. Therefore, recognised statistical methods for the treatment of these measurements should be applied.