

# EUROPEAN PARLIAMENT

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**A5-0455/2003**

3 December 2003

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position with a view to adopting a European  
Parliament and Council regulation on detergents  
(10595/3/2003 – C5-0521/2003 – 2002/0216(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Mauro Nobilia

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

At its sitting of 10 April 2003 Parliament adopted its position at first reading on the proposal for a European Parliament and Council regulation on detergents (COM(2002) 485 – 2002/0216(COD)).

At the sitting of 6 November 2003 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (10595/3/2003 – C5-0521/2003).

The committee had appointed Mauro Nobilia rapporteur at its meeting of 2 October 2002.

It considered the common position and the draft recommendation for second reading at its meeting of 2 December 2003.

At this meeting it adopted the draft legislative resolution unanimously, with 1 abstention.

The following were present for the vote: Caroline F. Jackson (chairman), Alexander de Roo (vice-chairman), Guido Sacconi (vice-chairman), Mauro Nobilia (rapporteur and vice-chairman), Bent Hindrup Andersen (for Hans Blokland), Jean-Louis Bernié, David Robert Bowe, John Bowis, Niels Busk (for Astrid Thors), Dorette Corbey, Chris Davies, Avril Doyle, Sâid El Khadraoui, Marialiese Flemming, Françoise Grossetête, Cristina Gutiérrez Cortines, Karin Jöns (for Anne Ferreira), Martin Kastler, Hedwig Keppelhoff-Wiechert (for María del Pilar Ayuso González), Christa Klauf, Bernd Lange, Paul A.A.J.G. Lannoye (for Hiltrud Breyer), Torben Lund, Jules Maaten, Minerva Melpomeni Malliori, Patricia McKenna, Rosemarie Müller, Giuseppe Nisticò, Ria G.H.C. Oomen-Ruijten, Béatrice Patrie, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Karin Scheele, Inger Schörling, María Sornosa Martínez, Catherine Stihler, Robert William Sturdy (for Martin Callanan), Antonios Trakatellis, Peder Wachtmeister, Phillip Whitehead.

The recommendation for second reading was tabled on 3 December 2003.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position with a view to adopting a European Parliament and Council regulation on detergents  
(10595/3/2003 – C5-0521/2003 – 2002/0216(COD))

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (10595/3/2003 – C5-0521/2003),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2002) 485)<sup>2</sup>,
  - having regard to the amended proposal (COM(2003) 306)<sup>3</sup>,
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 80 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0455/2003),
1. Amends the common position as follows;
  2. Instructs its President to forward its position to the Council and Commission.

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Council common position

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Amendments by Parliament

Amendment 1  
Recital 21 a (new)

***(21a) Detergents must not be harmful under normal or foreseeable conditions of use. Given the special risks that the substances classified as carcinogenic, mutagenic or toxic for reproduction - categories 1, 2 and 3 pursuant to Directive 67/548/EEC - may entail for human health, their use in detergents should be prohibited. As an exception, a substance classified in category 3 may be used in detergents if it has been evaluated by the Scientific Committee on Cosmetics and Non-Food Products and found to be***

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<sup>1</sup> Texts Adopted, 10.4.2003, P5\_TA(2003)0184.

<sup>2</sup> Not yet published in OJ.

<sup>3</sup> Not yet published in OJ.

*acceptable for use in detergents.*

*Justification*

*Reinstatement of amendment 5 from first reading.*

*This approach would be in keeping with the stated principles underlying Community law and with previous legislation such as that governing cosmetics.*

Amendment 2  
Recital 23

(23) Manufacturers ***should be able to*** request a derogation from the Commission, which ***should have the possibility to*** grant such derogation in accordance with the procedure referred to in Article 12(2).

(23) Manufacturers ***may*** request a derogation from the Commission which ***may*** grant such derogation in accordance with the procedure referred to in Article 12(2) ***if the criteria set out in Article 6 are met.***

*Justification*

*Reintroduces amendment 6 in first reading, adapting it to the new formulation used by the Council.*

*The Commission must ensure that the conditions set out in this regulation are met before granting a derogation.*

Amendment 3  
Recital 24

(24) Member States' competent authorities ***should be able to*** apply control measures to detergents on the market, but should avoid repeating tests made by the competent laboratories.

(24) Member States' competent authorities ***may*** apply control measures to detergents on the market, but should avoid repeating tests made by the competent laboratories ***and must ensure, in particular, that animal tests are not repeated.***

*Justification*

*Reintroduces amendment 7 in first reading.*

*Under Directive 86/609/EEC, animal experiments must not be carried out if the result sought is available by a method not entailing the use of an animal. Thus, duplication of animal tests should not happen. The principle of repeat tests being 'avoided' is unsatisfactory: repeat animal testing must be ended, and Member State competent authorities should ensure that this is the case.*

Amendment 4  
Recital 28

(28) Detergents complying with this Regulation should be allowed to be placed on the market ***without prejudice*** to other relevant Community provisions.

(28) ***This Regulation does not constitute a complete harmonisation of the legislation regarding the environmental and health concerns caused by detergents.*** Detergents complying with this Regulation should be allowed to be placed on the market, ***subject to other relevant Community provisions and national provisions, to the extent permitted by the Treaty and in particular Articles 28 and 30 thereof.***

*Justification*

*Reintroduces, in a more legally sound way, amendment 10 in first reading.*

Amendment 5  
Recital 31

(31) The issues relating to anaerobic biodegradation, the biodegradation of the main non-surfactant organic detergent ingredients, and phosphate content, which are not dealt with in this Regulation should be examined by the Commission and, where this is justified, a proposal should be presented to the European Parliament and the Council.

(31) The issues relating to anaerobic biodegradation, the biodegradation of the main non-surfactant organic detergent ingredients, and phosphate content, which are not dealt with in this Regulation should be examined by the Commission and, where this is justified, a ***legislative*** proposal should be presented to the European Parliament and the Council ***by ...\* at the latest. The review of phosphate content should include the evaluation of a gradual phase-out.***

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***\* Three years after the entry into force of this Regulation.***

*Justification*

*Reintroduces partially amendment 11 in first reading. Anaerobic biodegradation, the biodegradation of the main non-surfactant detergent ingredients and phosphates should be subject to specific regulation, in addition to the rules covering detergents. The studies which the Commission is having carried out in this area are nearing completion, whence the request that a proposal regulating such issues be drawn up in the near future.*

Amendment 6  
Recital 31 a (new)

***(31a) In accordance with its White Paper, 'Strategy for a Future Chemicals Policy', the Commission should promote research into the development and validation of non-animal alternative test methods at Community and national level and promote the competitiveness of the chemical industry to encourage innovation and, in particular, the development of safer chemicals.***

*Justification*

*Reintroduces amendment 12 in first reading.*

*Parliament's resolution on the White Paper: Strategy for a future Chemicals Policy, requests that 'more resources be provided immediately to accelerate the development and validation of further scientifically reliable, recognised and standardised alternative tests to replace animal tests in the implementation of the new system'. Use of the term 'non-animal alternative tests' emphasises the need for animal-based toxicity tests to be fully replaced by non-animal alternatives rather than for the number of animals used merely to be 'reduced'. Where research funding and expertise are needed to develop and validate new 'alternative tests', those methods that replace animal tests should be prioritised above those that simply reduce animal use.*

Amendment 7  
Recital 31 b (new)

***(31b) In accordance with Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes<sup>1</sup>, it is important to ensure that conventional test methods are replaced first and foremost by validated alternative methods that do not involve the use of animals or, should no such methods exist, by methods intended significantly to reduce the number of animals used or***



***methods that enable the suffering caused to animals to be significantly reduced.***

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<sup>1</sup> ***OJ L 358, 18.12.1986, p. 1.***

*Justification*

*Reintroduces amendment 13 in first reading.*

*In accordance with Directive 86/609/EEC the Member States should promote the spread of alternative test methods which do not involve the use of animals. The Council's definition of 'alternative method' includes methods which reduce the number of animals used or reduce the suffering of those that are used.*

Amendment 8  
Recital 31 c (new)

***(31c) The long-term aim of replacing all animal-based toxicity testing must be actively pursued, and the Commission should set out a targeted timeframe for such replacement.***

*Justification*

*Reintroduces amendment 14 in first reading.*

*The seventh amendment to the Cosmetics Directive states that the Commission should establish deadlines for the prohibition of the marketing of cosmetics or cosmetic ingredients tested on animals, and the prohibition of each test currently carried out using animals. This sense of an organised 'phase-out' of animal-based toxicity testing for human health effects must be extended to eco-toxicological endpoints.*

Amendment 9  
Article 1, paragraph 2, introductory part

2. For this purpose, this Regulation ***harmonises the following*** rules for ***the placing on the market of detergents and of surfactants for detergents:***

2. For this purpose, this Regulation ***lays down*** rules for:

*Justification*

*Linked with amendment 4. Reintroduces the initial Commission proposal.*

Amendment 10  
Article 1, paragraph 2, indent 2

– restrictions or bans on surfactants on grounds of biodegradability;

– restrictions or bans on surfactants on grounds of biodegradability, ***as well as restrictions on the use of certain substances or preparations in detergents;***

*Justification*

*Reinstatement of amendment 15 from first reading.*

*In order to achieve the objectives, in particular the objective of ensuring a high degree of protection of human health, the regulation also needs to lay down rules on restrictions other than those on grounds of biodegradability.*

Amendment 11  
Article 4, title

Limitations ***based on the biodegradability of surfactants***

Limitations ***to the placing on the market***

*Justification*

*Reinstatement of the text of the Commission proposal.*

*In order to achieve the objectives, in particular the objective of ensuring a high degree of protection of human health, the regulation needs to include general limitations to the placing on the market of surfactants, not just limitations based on the biodegradability of surfactants.*

Amendment 12  
Article 4, paragraph -1 (new)

***-1. Substances and preparations, the use of which is prohibited in detergents, shall be listed in Annex VIa.***

*Justification*

*Reinstatement of amendment 20 from first reading.*

*A clear reference to what was previously Annex VII, which listed restrictions in implementation of other community legislation, is needed.*

Amendment 13  
Article 5

## Article 5

### Granting of derogation

1. The request by a manufacturer for derogation shall be made by sending an application to the competent authority of the Member State concerned, referred to in Article 8(1), and to the Commission, providing evidence relating to the criteria mentioned under Article 6(1).

***Member States can make the request for derogation dependant upon the payment to the Member State competent authority of a fee. Such fees, if any, shall be levied in a non-discriminatory way and shall not exceed the cost of processing the application.***

2. Applications shall include a technical file supplying all the information and justifications necessary for evaluating the safety aspects related to the specific use of surfactants in detergents failing to comply with the biodegradability limits, as set out in Annex III.

In addition to the results of tests stipulated in Annex III, the technical file shall include information and results of tests, as stipulated in Annexes II and IV.

The tests laid down in Annex IV point 4 shall be carried out on the basis of a tiered approach. The tiered approach will be defined in a technical guidance document to be adopted in accordance with the procedure of Article 12(2). This guidance document will also specify, where appropriate, those tests for which the principles of good laboratory practice should be applied.

3. The competent authority of the Member State, receiving applications for derogation according to paragraphs 1 and 2, shall examine the requests, evaluate their compliance with the conditions for derogation and inform the Commission about the results within six months of receiving the complete application.

## Article 5

### Granting of derogation

1. The request by a manufacturer for derogation shall be made by sending an application to the competent authority of the Member State concerned, referred to in Article 8(1), and to the Commission, providing evidence relating to the criteria mentioned under Article 6(1).

2. Applications shall include a technical file supplying all the information and justifications necessary for evaluating the safety aspects related to the specific use of surfactants in detergents failing to comply with the biodegradability limits, as set out in Annex III.

In addition to the results of tests stipulated in Annex III, the technical file shall include information and results of tests, as stipulated in Annexes II and IV.

The tests laid down in Annex IV point 4 shall be carried out on the basis of a tiered approach. The tiered approach will be defined in a technical guidance document to be adopted in accordance with the procedure referred to in Article 12(2) ***at the latest by ...*** \*. This guidance document will also specify, where appropriate, those tests for which the principles of good laboratory practice should be applied.

3. The competent authority of the Member State, receiving applications for derogation according to paragraphs 1 and 2, shall examine the requests, evaluate their compliance with the conditions for derogation and inform the Commission about the results within six months of receiving the complete application.

If the competent authority of the Member State deems it necessary, for the evaluation of the risk which may be caused by a substance and/or a preparation, it shall ask, within three months of receiving the application, for further information, verification and/or confirmatory tests concerning these substances and/or preparations or their transformation products, of which they have been notified or have received information under this Regulation. The time period for the evaluation of the dossier by the competent authority of the Member State will start only after the dossier is completed with the additional information. If the requested information is not provided within 12 months, the application shall be considered incomplete and thus invalid. In such a case Article 6(2) shall not apply.

4. The Commission may grant derogation in accordance with the procedure referred to in Article 12(2). If necessary, before granting derogation the Commission shall evaluate further the matters indicated in paragraph 3. It shall take its decision within 12 months of receiving the evaluation from the Member State, except in the case of Article 5(4) and (6) of Decision 1999/468/EC where the period shall be 18 months.

5. Such derogations may allow, limit or severely restrict the placing on the market and the use of surfactants as ingredients in detergents, depending on the results of the complementary risk assessment, as defined in Annex IV. They may include a phase-out period for placing on the market and the use of surfactants as ingredients in detergents.

If the competent authority of the Member State deems it necessary, for the evaluation of the risk which may be caused by a substance and/or a preparation, it shall ask, within three months of receiving the application, for further information, verification and/or confirmatory tests concerning these substances and/or preparations or their transformation products, of which they have been notified or have received information under this Regulation. The time period for the evaluation of the dossier by the competent authority of the Member State will start only after the dossier is completed with the additional information. If the requested information is not provided within 12 months, the application shall be considered incomplete and thus invalid. In such a case Article 6(2) shall not apply.

***If further information on metabolites is sought, stepwise testing strategies should be employed to ensure maximum use of in-vitro and other non-animal test methods.***

***4. On the basis of, inter alia, the evaluation carried out by the Member State, the*** Commission may grant derogation in accordance with the procedure referred to in Article 12(2). If necessary, before granting derogation the Commission shall evaluate further the matters indicated in paragraph 3. It shall take its decision within 12 months of receiving the evaluation from the Member State, except in the case of Article 5(4) and (6) of Decision 1999/468/EC where the period shall be 18 months.

5. Such derogations may allow, limit or severely restrict the placing on the market and the use of surfactants as ingredients in detergents, depending on the results of the complementary risk assessment, as defined in Annex IV. They may include a phase-out period for placing on the market and the use of surfactants as ingredients in detergents. ***A derogation must be reviewed after 5 years and the applicant must***

*provide information to demonstrate that he is developing alternatives which will fulfil the requirements for "ultimate aerobic biodegradation".*

6. The Commission shall publish the list of surfactants that have obtained derogation, with the corresponding conditions or limitations of use, as provided in Annex V.

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*\* Twelve months after the entry into force of this Regulation.*

### *Justification*

*Reintroduces partially amendment 57 in first reading. It also deletes the possibility for the Member States of requesting the payment of a fee, which was added by the Council .*

*In line with the European Parliament resolution on the White Paper: Strategy for a future Chemicals Policy; toxicity testing should progress from the conventional 'tick box' approach towards tailor-made testing, utilising non-animal stepwise strategies where possible.*

*Derogations can be problematic for the purposes of environment and public health protection. If derogations are granted, industry should be able to demonstrate that safer alternatives are being developed and the necessity for a derogation should be subsequently reviewed.*

### Amendment 14 Article 6

#### ***Refusal of derogation***

1. Where the Commission considers ***refusing to grant*** a derogation, it shall do so in accordance with the procedure referred to in Article 12(2), and on the basis of the following criteria:

- ***use in high volumes;***
- use in ***wide-dispersive*** applications, rather than in ***low-dispersive*** applications;
- ***socio-economic benefits do not outweigh the impact on human health and the***

#### ***Conditions for granting a derogation***

1. Where the Commission considers ***granting*** a derogation, it shall do so in accordance with the procedure referred to in Article 12(2), and on the basis of the following criteria:

- ***the surfactant in question is intended for specific industrial and/or institutional use only, and the volume of sales and use throughout the EU territory is below that which would pose a threat to the environment and health, and;***
- use in ***low-dispersive applications***, rather than in ***wide-dispersive*** applications;
- ***an overall environmental benefit for its use has been shown, and social benefits***

*environment.*

2. As long as the Commission has not decided on a request for derogation, the placing on the market and use of the surfactants in question may be maintained, provided the manufacturer can show that the surfactant was already in use on the Community market at the date of entry into force of this Regulation and that the request for derogation was made within two years from that date.

3. If the Commission refuses to grant a derogation, it shall do so within 12 months of receiving from a Member State the evaluation mentioned in Article 5(3), except in the case of Article 5(4) and (6) of Decision 1999/468/EC where the period shall be 18 months. It *may* set a transitional period during which the placing on the market and use of the surfactant in question shall be phased-out. This transitional period shall not exceed two years from the date of the Commission Decision.

4. The Commission shall publish in Annex VI the list of surfactants that have been identified as not complying with this Regulation.

*such as food safety and hygiene standards are ensured.*

2. As long as the Commission has not decided on a request for derogation, the placing on the market and use of the surfactants in question may be maintained, provided the manufacturer can show that the surfactant was already in use on the Community market at the date of entry into force of this Regulation and that the request for derogation was made within two years from that date.

3. If the Commission refuses to grant a derogation, it shall do so within 12 months of receiving from a Member State the evaluation mentioned in Article 5(3), except in the case of Article 5(4) and (6) of Decision 1999/468/EC where the period shall be 18 months. It ***shall*** set a transitional period during which the placing on the market and use of the surfactant in question shall be phased-out. This transitional period shall not exceed two years from the date of the Commission Decision.

4. The Commission shall publish in Annex VI the list of surfactants that have been identified as not complying with this Regulation. ***The Commission shall publish in Annex VIa the list of surfactants which, irrespective of the results of the tests performed under Annexes II, III, and IV, are banned or restricted for use in detergents as a result of other Community legislation, in particular Directive 76/769/EEC.***

#### *Justification*

*Reintroduces partially amendments 47 and 24 from first reading and reinstates the Commission's text from previous article 7(3), in line with the shift of the provisions of previous Article 7(2) to article 6(4).*

*As derogations should always be the exception rather than the rule, it is more appropriate to grant them rather than to refuse them. Derogations should not be granted when there are no proven environmental and social benefits.*

*In connection with the assessment of general detergents, smaller manufacturers of specialised detergents for industrial use should in particular be dealt with separately, so that they have a*

*chance of securing derogations. An application for a derogation would then be possible if the surfactant in question has only specific industrial and/or institutional uses and the volumes used do not pose a threat to people and the environment.*

*A phase-out, to be meaningful, requires a clear objective in time.*

*An Annex, which lists restrictions in implementation of other community legislation, is needed .*

Amendment 15

Article 7, title

Testing of surfactants

Testing of surfactants ***and listing of those that are banned or restricted for use***

*Justification*

*Reinstates the Commission text.*

*This article should also make reference to surfactants that are banned or restricted for use.*

Amendment 16

Article 7, paragraph 1 a (new)

***The use of the following substances shall be banned unless they are recognised as safe by the competent scientific committee and the results of the tests referred to in Annexes II, III and IV are satisfactory:***

***- ditallow-dimethyl-ammonium-chloride (DTDMAC),***

***- alkylphenol (including ethoxylates derivatives - APEs).***

*Justification*

*Reinstates amendment 25 from first reading.*

*These two substances are highly toxic, and their biodegradability is limited. The international scientific community has recommended that a ban be placed on the use of such substances, which are anyway no longer used in the production of detergents*

Amendment 17

Article 9, paragraph 3, subparagraph 1

Manufacturers placing on the market the preparations covered by this Regulation

3. Manufacturers placing on the market the preparations covered by this Regulation

shall, ***upon request***, make available without delay and free of charge, to any medical personnel, ***an ingredient datasheet as stipulated in Annex VII C.***

shall make available without delay and free of charge ***to the authorities appointed by the Member States pursuant to Article 8(1) a datasheet listing all ingredients as stipulated in Annex VII.C.***

***The manufacturer or the authority shall, upon request, make that datasheet available without delay and free of charge to any medical personnel.***

#### *Justification*

*Reinstates in a modified form amendment 27 from first reading.*

*As a matter of principle the competent authorities must be in possession of the datasheet so that, in an emergency, medical practitioners can apply to them too.*

#### Amendment 18 Article 11, paragraph 6 a (new)

***6a. If a detergent product carries any claim to be 'green' and not the European Eco-label, then it must clearly indicate which of the European Eco-label criteria it does not fulfil. This must be indicated on the packaging next to and in same letter size as the 'green' claim.***

#### *Justification*

*Reinstates amendment 48 from first reading.*

*Consumers are drowning in green claims, but the only really European label, the European Eco-label or the European flower, is not being taken serious by many producers. The biggest detergent manufactures do not seem to be interested in joining the Eco-label scheme - but frequently use their own "green" claims instead. That confuses and makes it difficult for consumers to choose a sustainable product in many cases. Since the detergent products actually exist in the European Eco-label already, it is only fair to oblige industry - if they want to use their own green claims - to write on the packaging which criteria they do not fulfil if they were to apply for the greenest label - the Eco-label.*

#### Amendment 19 Article 13



**1.** The amendments necessary for adapting *the* Annexes shall be adopted in accordance with the procedure referred to in Article 12(2), and shall, wherever possible, use European Standards.

**2.** *In particular, the amendments or additions necessary for applying the rules of this Regulation to solvent-based detergents shall be adopted in accordance with the procedure referred to in Article 12(2).*

The amendments necessary for adapting Annexes ***I to VI and VIII to technical progress*** shall be adopted in accordance with the procedure referred to in Article 12(2), and shall, wherever possible, use European Standards.

#### *Justification*

*Reintroduces in a modified form amendment 29 in first reading and deletes a new provision added by the Council.*

*Some of the provisions contained in the annexes form an essential part of the legislation and are not merely implementing measures. Any amendments to them must therefore be made under the normal legislative procedure. This applies in particular to Annex VII, which lays down the provisions applying to labelling and the information to be provided to health care operators, and to the application of the regulation to solvent-based detergents, which was included in the scope of the regulation only at the common position stage. Furthermore, the implementing powers which the legislative authorities delegate to the committee must be specifically restricted to the adoption of the measures required to adapt provisions to technical progress.*

Amendment 20  
Article 13 a (new)

#### ***Article 13a***

##### ***Sunset Clause***

***Without prejudice to the implementing measures already adopted, the application of the provisions of this Regulation requiring the adoption of technical rules and decisions in accordance with the procedure referred to in Article 13 by the Committee referred to in Article 12(2) shall be suspended upon expiry of an eight-year period following the entry into force of the Regulation. On a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article***

***251 of the Treaty and, to that end, they shall review them prior to the expiry of the period referred to above.***

*Justification*

*Reintroduces amendment 30 in first reading.*

*This is the so-called sunset clause from the European Parliament resolution on the implementation of financial services legislation adopted on 5.2.2002. Originally meant for the field of financial services legislation, it can be adapted to the field of environmental legislation. With a view to consolidating democratic scrutiny of implementing powers and bringing them into line with a changing economic and technical environment, the legislator must be able to revise the scope of the powers conferred on the Commission by specifying the period during which they may be exercised. As the situation changes faster in the field of financial services than in the field of detergents and environmental standards, the period of four years has been extended to eight years.*

Amendment 21  
Article 14, paragraph 1 a (new)

***Without prejudice to the Treaty, and in particular Articles 28 and 30 thereof, the first paragraph shall not affect national provisions on detergents which are applicable in the absence of Community harmonisation measures adopted by the European Parliament and the Council.***

*Justification*

*Reintroduces amendment 59 in first reading.*

*Where Member States have adopted more restrictive national laws, they should not be forced to amend them.*

Amendment 22  
Article 15 a (new)

***Article 15a***

***Review***

***1. By ... \* at the latest, the Commission shall evaluate, submit a report on and, where justified, present to the European Parliament and Council a legislative***

*proposal to regulate the issues relating to:*

- anaerobic biodegradation,*
- the biodegradation of main non-surfactant organic detergent ingredients,*
- the use of phosphates with a view to their gradual phase-out or restriction to specific applications.*

*2. By ...\*\* at the latest, the Commission shall carry out a review of the application of this Regulation, paying particular regard to the biodegradability of surfactants, and shall present appropriate legislative proposals in accordance with Article 251 of the Treaty for the revision of this Regulation.*

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*\* Three years after the entry into force of this Regulation.*

*\*\* Five years after the entry into force of this Regulation.*

#### *Justification*

*Reintroduces amendments 32 and 60 in first reading.*

*Anaerobic biodegradation, the biodegradation of the main non-surfactant detergent ingredients and phosphates should be subject to specific regulation, in addition to the rules covering detergents. The studies which the Commission is having carried out in this area are nearing completion, whence the request that a proposal regulating such issues be drawn up in the near future.*

*The use of phosphates in detergents and/or surfactants for detergents should be specifically addressed.*

#### *Amendment 23*

##### *Annex IV, introduction, paragraph 2*

The complementary risk assessment run in the scope of this Regulation, ***in case it is likely that recalcitrant metabolites are produced***, shall be considered in the context of assessments made on the basis of Directive 93/67/EEC and Regulation (EEC) No 793/93. ***This is to be assessed case by case and in particular on the basis of the***

The complementary risk assessment run in the scope of this Regulation shall be considered in the context of assessments made on the basis of Directive 93/67/EEC and Regulation (EEC) No 793/93.

*results of the tests referred to in part 3.*

*Justification*

*Reinstates amendment 38 from first reading.*

*Annex IV introduces the concept of 'complementary risk assessment for surfactants in detergents' in case they failed the ultimate biodegradability test, particularly in the aquatic environmental compartment. However, the original wording raises doubts about whether complementary risk assessments for surfactants that have failed the ultimate biodegradability tests are compulsory. Surfactants that fail the Annex III tests but pass the Annex II tests should undergo complementary risk assessment.*

Amendment 24

Annex IV, introduction, paragraph 4

However, to minimise testing, and especially to avoid unnecessary animal testing, the additional studies listed under point 4.2.2 should be requested only where ***such information is necessary and proportionate***. In case of dispute concerning the extent of additional information required, a Decision may be taken in accordance with the procedure laid down in Article 12(2).

However, to minimise testing, and especially to avoid unnecessary animal testing, the additional studies listed under point 4.2.2 should be requested only where ***no non-animal alternative test is available***. In case of dispute concerning the extent of additional information required, a Decision may be taken in accordance with the procedure laid down in Article 12(2).

*Justification*

*New amendment referring to new text in the Common Position.*

*As animal testing in the context of surfactants for detergents is done to protect inter alia the very same animals against these detergents, and not just as a proxy for toxicity for humans, such testing is necessary and proportionate. However, it should only take place if no non-animal alternatives are available.*

Amendment 25

Annex IV, point 3, paragraph 1 a (new)

***Information shall be provided on contents of chemicals that are very persistent and/or very bio-accumulative and/or persistent, bio-accumulative and toxic, and/or of chemicals with endocrine-disrupting properties and/or of any chemicals that have these properties.***

### *Justification*

*Reinstates amendment 39 from first reading.*

*The regulation must eliminate the presence of very persistent and very bio-accumulative chemicals, as well as chemicals with endocrine disrupting properties used in detergents. This will promote public health and protect the environment.*

### **Amendment 26 Annex VI a (new)**

#### ***List of banned or restricted detergent surfactants, including in implementation of other Community legislation***

***The following list of detergent surfactants incorporates substances and preparations covered by this Regulation and banned or restricted by other Community legislation, in particular Directive 76/769/EEC:***

- substances and preparations listed in points 29, 30 and 31 of Annex I of Directive 76/769/EEC,***
- substances classified as carcinogenic, mutagenic or toxic to reproduction, category 3 pursuant to Directive 67/548/EEC;***

<b><i>NAME in the IUPAC NOMENCLATURE</i></b>	<b><i>LEGISLATION ENFORCED</i></b>	<b><i>EINECS or ELINCS NUMBER</i></b>	<b><i>CAS NUMBER and CAS NAME</i></b>	<b><i>LIMITATIONS</i></b>

***EINECS means the European Inventory of Existing Commercial Substances. This inventory contains the definitive list of all substances deemed to be on the Community market on 18 September 1981.***

***ELINCS means the list of new substances as defined in Council Directive 92/32/EEC.***

### *Justification*

*Reinstates the original text of the Commission as modified by amendment 40 from first reading.*

*An Annex, which lists restrictions in implementation of other community legislation, is needed (see also amendment 14 on Article 6(4)).*

### **Amendment 27**

Annex VII, Part A, paragraph 2

The following weight percentage ranges:

- less than 5 %,
- 5 % or over but less than 15 %,
- 15 % or over but less than 30 %,
- 30 % and more,

shall be used to indicate the content of the constituents listed below where they are added in a concentration above 0,2% by weight:

- *phosphates,*
- *phosphonates,*
- *anionic surfactants,*
- *cationic surfactants,*
- *amphoteric surfactants,*
- *non-ionic surfactants,*
- *oxygen-based bleaching agents,*
- *chlorine-based bleaching agents,*
- *EDTA and salts thereof,*
- *NTA (nitrilotriacetic acid) and salts thereof,*
- *phenols and halogenated phenols,*
- *paradichlorobenzene,*
- *aromatic hydrocarbons,*
- *aliphatic hydrocarbons,*
- *halogenated hydrocarbons,*
- *soap,*
- *zeolites,*
- *polycarboxylates.*

The following weight percentage ranges:

- less than 5 %,
- 5 % or over but less than 15 %,
- 15 % or over but less than 30 %,
- 30 % and more,

*(i)* shall be used to indicate the content of the constituents listed below where they are added in a concentration above 0,2% by weight:

- *total surfactants,*
- *other chelating agents,*
- *oxidants,*
- *fabric softening ingredients,*
- *dirt redepositing inhibitors,*
- *oxidant activators,*
- *colour protectors,*
- *other solvents,*
- *other hardness sequestering agents;*

*(ii)* shall be used to indicate the content of the constituents listed below, if added, irrespective of their concentration:

- *EDTA,*
- *phosphates,*
- *phenols.*

*Justification*

*Reintroduces amendment 41 in first reading.*

*Consumers are now more aware and more capable of making both 'commercial' and 'political' choices. However, an excess of, in some cases, cryptic information on labels can*

*lead to confusion, thus negating the original point of its inclusion.*

*The new wording provides for information being supplied on substances in respect of which greater caution should be exercised and which should thus be included on the label irrespective of concentration in the detergent, whilst remaining within the specified weight percentage limits (so as to ensure more comprehensive information and higher safety levels). Furthermore, grouping the list of other substances together into categories that are better known than the individual components, makes them easier for consumers to recognise.*

Amendment 28  
Annex VII, Part A, paragraph 3

The following classes of constituent, if added, shall be listed irrespective of their concentration:

- enzymes,
- disinfectants.

The following classes of constituent, if added, shall be listed irrespective of their concentration:

- enzymes,
- disinfectants,
- preservatives,**
- perfumes,**
- optical brighteners.**

*Justification*

*Reintroduces amendment 42 in first reading.*

*As part of the necessary revision and updating process, three further categories are added to the list, namely preservatives, optical bleaches and perfumes, which must be included on labels irrespective of their concentration, so as to raise safety levels and provide more comprehensive information.*

Amendment 29  
Annex VII, Part A, paragraphs 6a and 6b (new)

***A full list of the substances added to the detergent shall be made readily accessible to consumers and shall be published by the manufacturer on appropriate web sites and made available via a freephone number or supplied in writing on demand and within a reasonable period. To this end, the Commission shall adopt, by ...\*, a common ingredients nomenclature for detergents.***

***The web site address, telephone number,***

*and postal address of the information service shall be indicated on the primary packaging.*

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*\* One year after the entry into force of this Regulation.*

*Justification*

*Reintroduces amendment 44 in first reading.*

*In order to ensure respect for the consumer's right to appropriate information without overcrowding the label with information, a full list of ingredients should be made available elsewhere. In order to make this information easily understandable, the Commission should establish a common nomenclature for detergents to facilitate common usage of terms throughout the European Union.*



## EXPLANATORY STATEMENT

Since 1973 a large number of rules, directives, recommendations and decisions have been adopted on the subject of detergents and their ingredients, inter alia designed to establish the minimum technical limits for measuring the biodegradability of the surfactants contained in detergents.

However, the existing body of legislation cannot be extended to cover all types of surfactants currently found in detergents. It therefore does not ensure adequate environmental protection or allow freedom of movement for detergents and their basic ingredients - in this case surfactants - in the internal market.

The purpose of the Regulation is to remove the obstacles to freedom of movement and provide better environmental safeguards and greater consumer protection, by transposing, updating and completing part of the existing legislation.

The common position incorporates some of the amendments adopted by Parliament last April: some of the issues which were the subject of amendment by the European Parliament at first reading are now dealt with more fully.

Having said this, we would mention the most salient points of the amendments which are being retabled.

The first issue is derogation. The Council did not accept making the conditions for granting it positive rather than negative, but instead preferred the original wording proposed by the Commission. Nevertheless, the Council accepted the principle that a derogation may be requested only for surfactants in the case of industrial or institutional detergents (Article 4, paragraph 2). It should also be stressed that the common position reintroduces the original wording regarding the relationship between the socio-economic benefits and the impact on health and the environment (Article 6, paragraph 1). Your rapporteur prefers the version adopted in plenary, which is therefore being retabled.

The second issue is labelling: the European Parliament's position on this was not taken into account, except the amendment concerning dosage in the use of detergents. In fact, the problems linked to labelling, which require an analysis of Annex VII (Annex VIII at first reading), have created some confusion. On the one hand, the list of ingredients which must be mentioned, in the event of concentrations of more than 0.2% by weight, is definitely too heterogeneous, since it includes both perfectly harmless substances such as zeolites and highly toxic substances such as phosphates and phenols, and on the other hand it is strangely anachronistic in that the list is the same as that given in Recommendation 89/542/EEC for the labelling of detergents and cleaning products, which after all dates back to 1989. Nor has the Council taken into account Parliament's recommendations regarding certain items of information which it would be useful to give the consumer, such as a complete list of substances. Your rapporteur therefore considers that some of the amendments should be retabled.

The third issue is the continued use of committology. Here too the Council's position is

identical to that of the Commission, which has a tendency to extend the Committee's competences to issues which should, in my opinion, be governed by codecision, since they come under the heading of decisions which are mostly purely political. In this case too your rapporteur considers it appropriate to retable the relevant amendment.

The final issue is the safeguarding of national laws which may be more restrictive than European legislation, which was advocated by the European Parliament but is not mentioned in the common position. In this case too your rapporteur considers that the relevant amendments should be retabled.