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*****I**
REPORT

on the proposal for a European Parliament and Council decision establishing the list of priority substances in the field of water policy (COM(2001) 17 – C5-0021/2001 – 2000/0035(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Hiltrud Breyer

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)

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PROCEDURAL PAGE

By letter of 7 February 2000 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 175(1) of the EC Treaty, the proposal for a European Parliament and Council decision establishing the list of priority substances in the field of water policy (COM(2000) 47 - 2000/0035 (COD)).

At the sitting of 18 February 2000 the President of Parliament announced that she had referred this proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Agriculture and Rural Development, the Committee on Industry, External Trade, Research and Energy, the Committee on Legal Affairs and the Internal Market and the Committee on Fisheries for their opinions (C5-0079/2000).

By letter of 16 January 2001 the Commission submitted to Parliament an amended proposal (COM(2001) 17 – 2000/0035(COD)).

At the sitting of 18 January 2001 the President of Parliament announced that she had referred this amended proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Agriculture and Rural Development and the Committee on Legal Affairs and the Internal Market (C5-0021/2001).

The Committee on the Environment, Public Health and Consumer Policy appointed Hiltrud Breyer rapporteur at its meeting of 23 February 2000.

The committee considered the Commission proposal, the amended Commission proposal and draft report at its meetings of 19 September 2000, 10 October 2000, 26 February 2001 and 25 April 2001.

At the latter meeting it adopted the draft legislative resolution by 34 votes to 9, with 1 abstention.

The following were present for the vote: Caroline F. Jackson, chairman; Guido Sacconi and Ria G.H.C. Oomen-Ruijten, vice-chairmen; Hiltrud Breyer, rapporteur; Per-Arne Arvidsson, Maria del Pilar Ayuso González, Jean-Louis Bernié (for Hans Blokland), David Robert Bowe, John Bowis, Martin Callanan, Dorette Corbey, Jillian Evans (for Alexander de Roo), Marialiese Flemming, Karl-Heinz Florenz, Cristina García-Orcoyen Tormo, Robert Goodwill, Françoise Grossetête, Cristina Gutiérrez Cortines, Heidi Anneli Hautala (for Marie Anne Isler Béguin), Christa Klaß, Bernd Lange, Peter Liese, Torben Lund, Jules Maaten, Emilia Franziska Müller, Rosemarie Müller, Riitta Myller, Giuseppe Nisticò, Karl Erik Olsson, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Ulla Margrethe Sandbæk (for Jean Saint-Josse), Jacques Santkin (for Anneli Hulthén), Karin Scheele, Ursula Schleicher (for Marielle de Sarnez), Inger Schörling, Jonas Sjöstedt, Renate Sommer (for Avril Doyle), María Sornosa Martínez, Bart Staes (for Patricia McKenna), Catherine Stihler, Nicole Thomas-Mauro, Antonios Trakatellis, Phillip Whitehead.

The opinions of the Committee on Agriculture and Rural Development and the Committee on Legal Affairs and the Internal Market are attached. The Committee on Industry, External Trade, Research and Energy decided on 28 March 2000 not to deliver an opinion. The Committee on Fisheries decided on 23 March 2000 not to deliver an opinion.

The report was tabled on 25 April 2001.

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

LEGISLATIVE PROPOSAL

Proposal for a European Parliament and Council decision establishing the list of priority substances in the field of water policy (COM(2001) 17 – C5-0021/2001 - 2000/0035(COD))

The proposal is amended as follows:

Text proposed by the Commission ¹

Amendments by Parliament

Amendment 1 Recital 2 a

(2a) Under Directive 2000/60/EC specific measures **are to** be adopted against pollution of water by individual pollutants or groups of pollutants presenting a significant risk to or via the aquatic environment, including such risks to waters used for the abstraction of drinking water. Such measures are aimed at the progressive reduction and, for priority hazardous substances, as defined in Article 2 (30) of Directive 2000/60/EC, at the cessation or phasing out of discharges, emissions and losses. In view of **their** adoption, it is necessary to establish, as Annex X of Directive 2000/60/EC, the list of priority substances, including the priority hazardous substances. The list has been prepared in taking into account the recommendations referred to in Article 16(5) of Directive 2000/60/EC.

(2a) Under Directive 2000/60/EC specific measures **shall** be adopted **at the Community level** against pollution of water by individual pollutants or groups of pollutants presenting a significant risk to or via the aquatic environment, including such risks to waters used for the abstraction of drinking water. Such measures are aimed at the progressive reduction and, for priority hazardous substances, as defined in Article 2 (30) of Directive 2000/60/EC, at the cessation or phasing out of discharges, emissions and losses **within 20 years after their adoption at the Community level, with the ultimate aim, as recognised in the context of achieving the objectives of relevant international agreements, of achieving concentrations in the aquatic environment near background values for naturally occurring substances and close to zero for man-made synthetic substances.** In view of their adoption, it is necessary to establish, as Annex X of Directive 2000/60/EC, the list of priority substances, including the priority hazardous substances. The list has been prepared in taking into account the recommendations referred to in Article 16(5) of Directive 2000/60/EC.

¹ OJ

Justification

It is necessary to clarify the provisions and obligations enshrined in the Water Framework Directive, in particular Article 16.

Based on Article 1 of the Water Framework Directive. Links to the OSPAR ultimate aim of near-zero/near background concentrations.

Amendment 2
Recital 2 b (new)

(2b) For substances occurring naturally or produced through natural processes, such as cadmium, mercury and PAHs, complete phase-out of emissions, discharges and losses is impossible. When drawing up the relevant individual directives for ending pollution of the aquatic environment by these substances as far as possible this situation must be properly taken into account.

Justification

Self-explanatory

Amendment 3
Recital 5 a (new)

(5a) The Commission undertakes to involve in the COMMPS procedure the countries which have applied for membership of the EU, assigning priority to those through whose territory watercourses pass which also pass through the territory of a Member State of the EU or flow into them.

Justification:

See point 8 of the short justification in opinion of Legal Affairs Committee.

Amendment 4
Recital 8 a (new)

(8a) Pursuant to Article 16(3) of the Water Framework Directive 2000/60/EC, the identification of the 'priority hazardous substances' requires consideration of the selection of substances of concern in relevant Community legislation regarding hazardous substances or relevant international agreements; whereas hazardous substances are defined in the water framework directive as 'substances or groups of substances that are toxic, persistent and liable to bio-accumulate, and other substances or groups of substances which give rise to an equivalent level of concern'.

Justification:

Inclusion of the requirements in Article 16(3) and the definition of hazardous substances in Article 2(29) of the Water Framework Directive to remind of the basis for the identification of priority hazardous substances.

Amendment 5
Recital 8 b (new)

(8b) International agreements of relevance include inter alia: the OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic, the HELCOM Convention on the Protection of the Marine Environment of the Baltic Sea, the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, the International Maritime Organisation, the UNEP Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants of the UN-ECE Convention on Long-Range Transboundary Air Pollution.

Justification:

A list of relevant international agreements is given to have an explicit reference.

Amendment 6
Recital 9

(9) The **identification** of priority substances and priority hazardous substances targeted to the establishment of controls of emissions, discharges and losses **into surface, transitional and coastal waters from land-based sources** contributes to the objectives and the Community commitments under international conventions for the protection of marine waters, in particular to the implementation of the Strategy with regard to hazardous substances adopted at the 1998 OSPAR Ministerial Meeting under the Convention for the protection of the marine environment of the North-East Atlantic pursuant to Council Decision 98/249/EC.

(9) The **selection** of priority substances and **the identification of** priority hazardous substances targeted to the establishment of controls of emissions, discharges and losses **shall** contribute to the objectives and the Community commitments under international conventions for the protection of marine waters, in particular to the implementation of the Strategy with regard to hazardous substances adopted at the 1998 OSPAR Ministerial Meeting under the Convention for the protection of the marine environment of the North-East Atlantic pursuant to Council Decision 98/249/EC.

Justification:

Clarification that priority substances are not identified but selected while priority hazardous substances are identified. Emissions, discharges and losses into surface, transitional and coastal waters from land-based sources do not cover indirect emissions, discharges and losses (e.g. to air or soil) that can also end up in marine waters. Therefore the limitation of control measures to releases into surface, transitional and coastal waters only is not accurate and should be deleted.

Amendment 7
Recital 9 a (new)

(9a) The identification of the ‘priority hazardous substances’ on the list of priority substances shall be made with particular regard to hazardous substances agreed for phase-out or for cessation of discharges, emissions and losses in international agreements:

- 1. Hazardous substances, which are agreed for phase-out in international fora including IMO, UNEP or UN-ECE;***
- 2. Hazardous substances which are agreed for cessation of discharges, emissions and losses as a priority in the OSPAR Convention, including hazardous substances identified by the OSPAR***

DYNAMEC Selection I¹ or III²;

3. Hazardous substances which give rise to a “similar level of concern” as substances that are persistent, toxic and liable to bio-accumulate (PTBs), such as endocrine disrupters identified under the OSPAR Strategy;

4. Heavy metals included in the Protocol on Heavy Metals of the UN-ECE Convention on Long-Range Transboundary Air Pollution and selected for priority action under OSPAR 1998 and 2000, which give rise to a “similar level of concern” as PTBs;

Not inherently biodegradable and $\log K_{ow} \geq 5$ or $BCF \geq 5000$ and acute aquatic toxicity $\leq 0,1$ mg/l or mammalian CMR

Not inherently biodegradable and $\log K_{ow} \geq 4$ or $BCF \geq 500$ and acute aquatic toxicity ≤ 1 mg/l or mammalian CMR

Justification

The identification of "priority hazardous substances" should be made with regard to agreements in international fora. It is important to clarify that the OSPAR Convention does not contain any provisions on the phase-out of hazardous substances, but that instead it aims at the cessation of emissions, losses and discharges of hazardous substances into the environment.

Amendment 8
Recital 9 b (new)

(9b) In order to render measures to combat water pollution effective, the Commission must promote the synchronisation of research and of the conclusions effected in the framework of the OSPAR Convention and the COMMPS procedure.

Justification:

See point 9 of the short justification in opinion of Legal Affairs Committee.

(Amendment 9)
Recital 10

(10) The COMMPS procedure is designed

(10) The COMMPS procedure is designed

as a dynamic instrument for the prioritisation of dangerous and hazardous substances open to continuous improvements and **modifications** with a view of revision and adaptation of the first **priority list** at the latest four years after the entry into force of the Directive 2000/60/EC and at least every four years thereafter,

as a dynamic instrument for the prioritisation of dangerous and hazardous substances open to continuous improvements and **developments** with a view of revision and adaptation of the first list **of priority substances** at the latest four years after the entry into force of the Directive 2000/60/EC and at least every four years thereafter;

in order to ensure that all potential priority substances are taken into account by the next selection process, it is required that no substances are systematically excluded, that best available knowledge is taken into account, and that the following substances are included in the selection process:

- i) all chemicals and all pesticides on the EU market,***
- ii) all substances identified as ‘hazardous’ by OSPAR***

Justification:

When the COMMPS was first applied, it suffered from important deficiencies regarding those substances for which no data were available at Community level from national monitoring programmes. This situation applies to

- about 60% of pesticides which are currently in use,

- all industrial chemicals which no undertaking in the EU produces or imports in quantities of over 1000 tonnes per year, namely about 8 000 to 10 000 substances for which appropriate data were not available in the IUCLID databank when the COMMPS procedure was carried out,

- industrial chemicals produced or imported by fewer than four undertakings in the EU in quantities of > 1 000 tonnes per year (confidentiality of market data).

This situation resulted in the COMMPS procedure being able to cover only 95 substances on the basis of monitoring data and 123 substances on the basis of modelling data. Furthermore, the number of substances considered at all, about 660, was very small (when compared with the 20 000 to 30 000 substances relevant to the market in the EU).

These deficiencies should be eliminated at the latest in four years time when the COMMPS procedure is being carried out once again.

The linguistic amendment is intended to prevent any confusion which might arise because the terminology which has been used since the beginning of the legislative process leading to the

adoption of the framework directive and its 'daughter directives' has been anything but homogeneous.

(Amendment 10)
Recital 10 a (new)

(10a) The effectiveness of COMMPS is largely determined by the availability of relevant data; current Community legislation on chemical substances has been found to suffer from a major lack of data; the purpose of the water framework directive can only be fully met if full data availability is achieved by the revision of the Community legislation on chemical substances.

Justification:

Self-explanatory.

Amendment 11
Recital 10 b (new)

(10b) The reference to the COMMPS procedure does not preclude the possibility that the Commission may use methods of assessing the harmfulness of certain substances which have already been developed or used in other anti-pollution measures

Justification:

Neither the framework directive on water policy (2000/60/EC) nor the Commission's amended proposal establishing the list of priority substances in the field of water policy defines how the procedure for identifying and selecting dangerous and hazardous substances (i.e. the COMMPS procedure in this proposal) is to be revised. It therefore seems worthwhile to recall that this procedure is inevitably subject to change, and could for example be complemented by the risk assessment technique provided for, in particular, by Directive 91/414 of 15 July 1991 concerning the placing of plant protection products on the market.

Amendment 12)
Recital 10 c (new)

(10c) In accordance with Article 1(e) of Directive 2000/60/EC, the future reviews of the priority list under Article 16(4) shall contribute to the cessation of emissions, discharges and losses of all hazardous substances by 2020 by progressively adding further substances to the list.

Justification:

The total number of hazardous substances is significantly higher than the number of "priority hazardous substances" identified in this Decision. In order to achieve the aim of ceasing emissions, discharges and losses of all hazardous substances by 2020 as agreed in OSPAR, each review needs to add a substantial number of priority hazardous substances to the list of priority substances.

Amendment 13
Recital 10 d (new)

(10d) During revision and adjustment of the list of priority substances, in addition to the further developed COMMPS procedure, account should be taken as appropriate of the results of the reviews under Directive 91/414 (plant protection products), Regulation 93/793 (existing substances), Directive 98/8 (biocides) and possibly other scientific information from the review of existing or new directives, in particular within the framework of legislation on chemicals.

Duplicate testing of substances must be avoided in view of the costs involved.

In the adaptation of the lists it must be possible both to set a lower priority ranking and also to place a substance in a higher category.

Justification

In particular in the context of the biocides and plant protection products directives a review and assessment is currently being undertaken of certain substances which are at present classified in the Annex as 'possible priority hazardous substances' or as 'priority substances'. These assessments should be concluded in the course of 2003. The review of the list of priority substances must be undertaken with reference, on a neutral basis, to existing and new EU legislation and scientific knowledge and avoiding costly

duplicate testing.

Amendment 14
Recital 10 e (new)

(10e) Risk-reduction measures proposed by the Commission for priority substances should be based on the results of the most recent scientific risk assessments.

Justification

The list of priority substances enables risk-reduction measures to be taken regarding the substances on that list. It is clear that the results of the most recent scientific risk assessments should also be taken into account in the nature and scope of these risk-reduction measures.

Amendment 15
Article 3

The list of priority substances ***in the field of water policy*** shall, on its adoption by the European Parliament and the Council, become Annex X to European Parliament and of the Council Directive 2000/60/EC establishing a framework for Community action in the field of water policy.

The list of priority substances ***including substances identified as priority hazardous substances, provided for in Article 16(2) and (3) of Directive 2000/60/EC*** shall, on its adoption by the European Parliament and the Council, become Annex X to European Parliament and of the Council Directive 2000/60/EC establishing a framework for Community action in the field of water policy.

Justification:

For clarification purposes and coherence with article 1 of this decision.

Amendment 16
Article 3 a (new)

Consideration of all potential priority substances requires in particular that the substance and exposure related data needed for the implementation of the COMMPS procedure is made available. The Commission and the Member States shall ensure that this information is

available.

Justification:

Self-explanatory.

Amendment 17
ANNEX, substance 13

Text proposed by the Commission

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(13)	330-54-1	206-354-4	Diuron	

Amendment by Parliament

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(13)	330-54-1	206-354-4	Diuron	(X)***

Justification

Recent research by the European Union of National Associations of Water Suppliers and Waste Water Services on pollution by pesticides of drinking water sources in Europe has shown that diuron is frequently present in high concentrations in water and is thus a very high risk in the preparation of drinking water. Diuron should therefore be classified as a priority substance subject to review.

Amendment 18
ANNEX, substance 18

Text proposed by the Commission

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(18)	34123-59-6	251-835-4	Isoproturon	

Amendment by Parliament

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
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(13)	34123-59-6	251-835-4	substance Isoproturon	(X)***
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Justification

Recent research by the European Union of National Associations of Water Supplier and Waste Water Services on pollution by pesticides of drinking water sources in Europe has shown that isoproturon is frequently present in high concentrations in water and is thus a very high risk in the preparation of drinking water. Isoproturon should therefore be classified as a priority substance subject to review.

Amendment 19
ANNEX, substance 28

Text proposed by the Commission

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(28)	122-34-9	204-535-2	Simazine	

Amendment by Parliament

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(28)	122-34-9	204-535-2	Simazine	(X)***

Justification

Recent research by the European Union of National Associations of Water Suppliers and Waste Water Services on pollution by pesticides of drinking water sources in Europe has shown that simazine is frequently present in high concentrations in water and is thus a very high risk for the preparation of drinking water. Simazine should therefore be classified as a priority substance subject to review.

Amendment 20
ANNEX, footnote ***

***** These priority substances are subject to a review for identification as possible "priority hazardous substances" by 31**

***** These substances which have not yet been identified as priority hazardous substances will first be subject to a review**

December 2003. A final decision will be taken in the review of the list of priority substances as foreseen under Article 16(4) of Directive 2000/60/EC.

and finally classified by 1 July 2002.

Justification

A classification of all priority substances should take place as quickly as possible. A priority must be to review all substances identified as priority hazardous substances.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council decision establishing the list of priority substances in the field of water policy (COM(2001) 17 – C5-0021/2001 – 2000/0035(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council and the amended proposal (COM(2000) 47¹ and COM(2001) 17²),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal and the amended proposal to Parliament (C5-0079/2000 - C5-0021/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy and the opinions of the Committee on Agriculture and Rural Development and the Committee on Legal Affairs and the Internal Market (A5-0135/2001),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 177, 27.6.2000, p.74.

² OJ C

EXPLANATORY STATEMENT

Identification of ‘priority hazardous substances’

The Commission proposal is based on the common position adopted by the Council for a water framework directive. The common position made no provision either for identification of ‘priority hazardous substances’ or for the gradual elimination of pollution of waters by hazardous substances. In its second reading on 16 February 2000 the European Parliament voted for integration of the OSPAR strategy into the water framework directive and in particular called for the progressive elimination of pollution of waters by continuously reducing discharges, emissions and losses of hazardous substances thereby moving towards the target of total cessation by 31 December 2020.

The result of the conciliation meeting of 29 June 2000 represents a compromise which provides for the progressive elimination of pollution of waters by continuously reducing discharges, emissions and losses of ‘priority hazardous substances’, thereby moving towards the target of their cessation 20 years after adoption of the substances. With this decision the ‘priority hazardous substances’ are to be identified on the list of priority substances.

In order to facilitate a speedy and continuous transposition of the Community controls on hazardous substances in accordance with the strategy set out in Article 16 of the water framework directive, this decision is to identify the ‘priority hazardous substances’. At present it does not seem sensible to carry out the identification as a second stage as this would lead to considerable delays and would also place in jeopardy the achievement of the OSPAR targets for the OSPAR priority substances.

The closest possible cooperation with the Commission must be sought in identifying the ‘priority hazardous substances’.

The criteria for the identification of ‘priority hazardous substances’ should be clear and comprehensible. Identification in fact represents a zero emissions target in 20 years time, which in some cases will have major implications for the manufacturers, traders and others concerned. Bearing international obligations in mind and with the aim of achieving better integration of the various approaches in EU water policy it is proposed that three criteria should be used for the selection of ‘priority hazardous substances’:

1. Substances which are persistent, toxic (aquatic toxicity or chronically toxic to humans or having hormonal effects) and which bioaccumulate, This equates to the definition of hazardous substances as set out in Article 2(28)(a) of the water framework directive. This definition is basically the same as the definitions used in OSPAR. Thus the substances identified as ‘hazardous’¹ in the OSPAR lists are taken into account;
2. Substances which are priority substances under OSPAR;
3. Substances covered by the 1998 UN-ECE POP Protocol.

Organic substances which are persistent and have a tendency to bioaccumulation

¹ Not potentially degradable pursuant to OECD 302 B-C or equivalent test and BCF \geq 500 or logPow \geq 4 and aquatic toxicity \leq 1 mg/l or chronically toxic to humans (carcinogenic, mutagenic or toxic for reproduction category 1 or 2).

require a special strategy

Among the substances on the priority list are substances which are persistent, toxic (aquatic toxicity or chronically toxic to humans or with hormonal effects) and have a tendency to bioaccumulation. For these substances, using the methods available for defining risks, there can be no prediction of the concentrations in the marine environment at which deleterious effects can be excluded in the long-term. Substances which degrade only very slowly and which bioaccumulate can, in the long-term and in combination, trigger unforeseen effects even if their acute aquatic toxicity is not apparent. Such substances can also affect humans through the food chain (fish, mussels).

The same applies to freshwater ecosystems, the quality of which is mainly determined by the sediment communities and long food chains (freshwater mudflats). These substances can also be transported over wide distances in the environment. In other words, the emission sources may be outside Europe and the emissions from the European Community may impact on countries outside the EU.

Substances which show the hazardous characteristics described above must be identified on the priority list as 'priority hazardous' as the definition of environmental quality objectives and emission limits must follow a strategy which differs from the risk assessment approach for the other priority substances. For persistent and bioaccumulating substances the concentrations in sediments and biota where no long-term harmful effects are to be anticipated cannot be determined on the basis of the EU risk assessment concept. Similarly the long-term environmental quality objectives must be oriented towards the natural regional background concentrations. In terms of the use of these substances it means that all uses in which environmental inputs are unavoidable must be halted.

The Community's water policy must also contribute to protection of the oceans

Alongside the Commission's establishment of the list of priority substances in relation to water policy, a technical working party of the OSPAR commission has drawn up a list of hazardous substances which, on the basis of their intrinsic characteristics, are of special long-term significance for the protection of the oceans. Recital 9 of the Commission proposal indicates that the priorities list is also meant to assist in the implementation of Council Decision 98/249/EC as regards protection of the marine environment. So that this intention can be realised with all due speed it seems sensible to take account of the OSPAR list of substances of potential concern in terms of their effects on the marine environment when identifying the 'priority hazardous substances'. For all those concerned it would improve planning security.

Significant deficiencies in the COMMPS procedure

The procedure for the selection of priority substances systematically ignored numerous potentially relevant substances for which no monitoring data were available at Community level: i) pesticides, ii) industrial chemicals with a market volume of less than 1000 tonnes per year, iii) industrial chemicals produced or imported by fewer than four firms. In addition, certain substances for which monitoring data were submitted by fewer than three Member States were not taken into account and no investigation was made as to whether these substances might not also be an environmental hazard in other Member States. The significance of such an investigation was demonstrated in the case of TBT, and it should

therefore be carried out systematically in future and should be extended. The priorities set are very incomplete and as a result must be corrected as quickly as possible. Potential priority substances must thus be taken into account more effectively in the renewed application of the COMMPS procedures.

21 March 2001

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

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

on the proposal for a decision of the European Parliament and of the Council establishing the list of priority substances in the field of water policy
(COM(2001) 17 – C5-0021/2001 – 2000/0035 (COD))

Draftsman: Gordon J. Adam

PROCEDURE

The Committee on Agriculture and Rural Development appointed Gordon J. Adam draftsman at its meeting of 24 January 2001.

It considered the draft opinion at its meeting of 20 March 2001.

At the last meeting it adopted the following conclusions by 22 votes to 1.

The following were present for the vote: Joseph Daul, acting chairman; Gordon J. Adam, draftsman; Danielle Auroi, Sergio Berlato, António Campos, Christel Fiebiger, Francesco Fiori, Carmen Fraga Estévez for Michl Ebner, Georges Garot, Lutz Goepel, Willi Görlach, María Izquierdo Rojo, Elisabeth Jeggle, Salvador Jové Peres, Heinz Kindermann, Dimitrios Koulourianos, Wolfgang Kreissl-Dörfler for Bernard Poinant, Astrid Lulling for Neil Parish, Albert Jan Maat, Xaver Mayer, Mikko Pesälä, Struan Stevenson, Robert William Sturdy.

SHORT JUSTIFICATION

The Commission's amended proposal establishing the list of priority substances in the field of water policy stems from the proposal to establish a Water Framework Directive. Following consultation between the Parliament and Council, it was agreed the original proposal should be revised so that there should be not just priority substances, but a subgroup of priority hazardous substances, the use of which shall be ceased or phased out within 20 years.

The Committee of Agriculture and Rural Development drew up an opinion in October 2000, calling for to this revision and suggesting some amendments, pointing out that natural ingredients are used in agriculture and should not be phased out within 20 years. These amendments are repeated below.

In addition, an amendment is proposed suggesting that the review for identification of possible priority hazardous substances should be at the same time as the review of the list of priority substances as foreseen under Article 16(4) of Directive 2000/60/EC.

AMENDMENTS

The Committee on Agriculture and Rural Development calls on the Committee on the Environment, Public Health and Consumer Policy, as the committee responsible, to adopt the following amendments :

(Amendment 1)
Recital 10 a (new)

Natural nutrients are used in agriculture, and the substances these contain should not be included among the priority substances or priority hazardous substances whose use must cease or be phased out within 20 years.

Justification:

Self-explanatory

(Amendment 2)
Recital 10 b (new)

Any substances or compounds in manure on livestock farms must not be regarded as priority substances or priority hazardous substances .
Compounds in manure, when manure is used in farming, must not be included in any list of compounds or substances that should or must be eliminated or halted.

Justification:

The category priority 'hazardous substances' has a specific status. Other priority substances need only be gradually reduced. The definition of the pollutants becomes even more important, indeed absolutely paramount.

(Amendment 3)
Annex Footnote ***

These priority substances are subject to a review for identification as possible "priority hazardous substances" by 31

These priority substances are subject to a review for identification as possible "priority hazardous substances" at the same

December 2003. A final decision will be taken in the review of the list of priority substances as foreseen under Article 16(4) of Directive 2000/60/EC

time as the review of the list of priority substances as foreseen under Article 16(4) of Directive 2000/60/EC

Justification:

This would bring the evaluation into line with the provisions of the Plant Protection Directive 91/414/EEC.

20 March 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

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

on the proposal for a decision of the European Parliament and of the Council establishing the list of priority substances in the field of water policy
(COM(2001) 17 – C5-0021/2001 – 2000/0035 (COD))

Draftsman: Jean-Maurice Dehousse

PROCEDURE

At its meeting of 28 March 2000 the Committee on Legal Affairs and the Internal Market appointed Jean-Maurice Dehousse draftsman.

It considered the draft opinion at its meetings of 6 March 2001 and 20 March 2001.

At the latter meeting it adopted the following amendments unanimously.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Ward Beysen, vice-chairman; Jean-Maurice Dehousse, draftsman; Maria Berger, Francesco Fiori (for Antonio Tajani pursuant to Rule 153(2)), Janelly Fourtou, Evelyne Gebhardt, Malcolm Harbour, Heidi Anneli Hautala, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Manuel Medina Ortega, Carlos Ripoll i Martínez Bedoya (for Guido Viceconte), Diana Wallis, Matti Wuori (for Raina A. Mercedes Echerer) and Stefano Zappalà.

SHORT JUSTIFICATION

1. On 7 February 2000, the Commission referred to the European Parliament and the Council a proposal for a decision establishing the list of priority substances in the field of water policy (COM(2000)47 final).
2. This incorrect and (in French) unintelligible title calls for the following clarifications.
 - 2.1 The Commission proposal is the product of a policy with a long history seeking to control, limit and reduce pollution of Europe's waters.
 - 2.2 This policy is described in the above-mentioned Commission document.
 - 2.3 The document states, in particular, that the proposal for a decision was provided for in Article 16 of the proposal for a European Parliament and Council Directive establishing a framework for Community action in the field of water policy, or Water Framework Directive (WFD).
 - 2.4 Parliament voted on the directive on 16 February 2000 on the basis of a report by Marie-Noëlle Lienemann.
 - 2.5 On the basis of the vote, a conciliation procedure led to approval of a joint text by the conciliation committee provided for by Article 251(3) of the EC Treaty and then by Parliament (7 September 2000) and the Council (14 September 2000). This text was published in the Official Journal of the European Communities on 22 December 2000.
3. Article 16(1) as adopted after amendment by Parliament provides that 'the European Parliament and the Council shall adopt specific measures against pollution of water by individual pollutants or groups of pollutants', but that 'these measures are to be adopted on the basis of proposals presented by the Commission'.
4. These measures include identification of pollutants, which is to be performed on the basis of 'a list of priority substances' (Article 16(2) of the WFD) which may subsequently be supplemented.
5. Among these priority substances, the Commission must make a proposal identifying priority hazardous substances (Article 16(3) of the WFD).
6. The Commission's proposal of 7 February 2000 did not identify these substances. The Commission had proposed a text before the definitive adoption of the WFD, and the requirement to identify priority hazardous substances had not yet been incorporated in the draft WFD.

Consequently, on 18 January 2001, the Commission submitted an amended proposal concerning the 'decision establishing the list of priority substances in the field of water policy' (COM(2001) 17), the main aim of which is to ensure compatibility with the WFD by identifying priority hazardous substances.

On the basis of Article 16(1) of the WFD, the categorisation of the substances leads to an enormous difference in treatment:

- only priority hazardous substances must be eliminated (gradually or otherwise)
- other priority substances need only be gradually reduced.

7. The final text of Article 2(1) stipulates that the WFD applies to all surface waters but that territorial waters (i.e. the sea) are to be equated with coastal waters as regards chemical status.

The Commission should therefore bear in mind that it is proposed to apply the same standards, including those of a chemical nature, to seawater as to surface waters.

Has it been clearly established that such uniform application will be possible despite the inherently different chemical compositions of the waters concerned?

Another question of the same type may also arise because the salination of the seas is by no means constant and the problems relating to the Mediterranean, for instance, may differ to a greater or lesser extent from those of the Baltic.

8. Not surprisingly, the WFD assigns some importance to the concept of the 'river basin district' and to the management of such districts, a point which is confirmed by the joint text.

It goes without saying that the proposal for a decision on priority substances will be one of the main elements in that management.

As everybody is aware, many watercourses which pass through the territory of the Union also pass through the territory of third States - of applicant countries, in fact.

Moreover, these are not secondary tributaries but major rivers such as the Oder, Elbe and Danube.

It is therefore surely desirable from the point of view of all parties concerned that these States should be involved in the work which has been undertaken, particularly the management of the river basin districts.

It is hard to imagine, in any case, how a Member State could reduce pollution of such a watercourse without the close collaboration of the other riparian States, whether or not they are members of the Union.

The association agreements with applicant countries provide a legal basis for their cooperation with the EU in the field of effective prevention and reduction of water pollution, particularly of sources of drinking water and crossborder watercourses¹.

This need for cooperation is recalled in the first amendment.

9. The second amendment arises from the Commission's reference to the 'strategy with

¹ As stipulated, for example, in the Association Agreement between the EU and the Czech Republic (Article 81(2)(5)).

regard to hazardous substances adopted at the 1998 OSPAR Ministerial Meeting¹.

- 9.1 The Commission confines itself to stating that the proposed decision will contribute to the implementation of the Community's objectives thereunder (Recital 9).
- 9.2 This assertion is of course incontestable, but it calls for more careful reflection.
- 9.3 Firstly, there is convergence between the objectives pursued in this connection by the Community and by the OSPAR system, to which the Community is in any case a party. The OSPAR Convention has the purpose of protecting and conserving ecosystems and biodiversity, an objective which leads to the selection of hazardous substances and the determination of priorities among them.
- 9.4 The OSPAR Convention imposes obligations upon its signatories, particularly that they take all possible steps to prevent and eliminate pollution (Article 2), which they are to do in a 'maritime area' which comprises the high seas, territorial seas and seas adjacent thereto, and intermediate areas, but also internal waters, at least up to the freshwater limit.
- 9.5 In other words, the two systems will in part apply to identical areas, with the same general objective of protecting the environment.
- 9.6 Synchronisation of research and conclusions would therefore, surely, prevent any waste and facilitate the implementation of decisions by the Member States.
- 9.7 It is also worth noting that three Member States (Austria, Greece and Italy) are not parties to the OSPAR Convention, in which they therefore participate indirectly via the Commission.

¹ Convention for the protection of the marine environment of the North-East Atlantic, Paris, 22 September 1992, replacing the Oslo and Paris Conventions.

AMENDMENTS

The Committee on Legal Affairs and the Internal Market 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

Amendments by Parliament

(Amendment 1)
Recital 5a (new)

The Commission undertakes to involve in the COMMPS procedure the countries which have applied for membership of the EU, assigning priority to those through whose territory watercourses pass which also pass through the territory of a Member State of the EU or flow into them.

Justification: See point 8 of the short justification.

(Amendment 2)
Recital 9a (new)

In order to render measures to combat water pollution effective, the Commission must promote the synchronisation of research and of the conclusions effected in the framework of the OSPAR Convention and the COMMPS procedure.

Justification: See point 9 of the short justification.

(Amendment 3)

Recital 10

The COMMPS procedure is designed as a dynamic instrument for the prioritisation of dangerous and hazardous substances open to continuous improvements and modifications with a view of revision and adaptation of the first **priority list** at the latest four years after the entry into force of the Directive 2000/60/EC and at least every four years thereafter.

The COMMPS procedure is designed as a dynamic instrument for the prioritisation of dangerous and hazardous substances open to continuous improvements and modifications with a view of revision and adaptation of the first **list of priority substances** at the latest four years after the entry into force of the Directive 2000/60/EC and at least every four years thereafter.

Justification:

This linguistic amendment is intended to prevent any confusion which might arise because the terminology which has been used since the beginning of the legislative process leading to the adoption of the framework directive and its 'daughter directives' has been anything but homogeneous.

Amendment 4

Recital 10a (new)

The reference to the COMMPS procedure does not preclude the possibility that the Commission may use methods of assessing the harmfulness of certain substances which have already been developed or used in other anti-pollution measures.

Justification

Neither the framework directive on water policy (2000/60/EC) nor the Commission's amended proposal establishing the list of priority substances in the field of water policy defines how the procedure for identifying and selecting dangerous and hazardous substances (i.e. the COMMPS procedure in this proposal) is to be revised. It therefore seems worthwhile to recall that this procedure is inevitably subject to change, and could for example be complemented by the risk assessment technique provided for, in particular, by Directive 91/414 of 15 July 1991 concerning the placing of plant protection products on the market.

Amendment 5
Recital 10b (new)

The Commission must give the European Committee for Standardisation a remit to:

(a) harmonise and standardise methods of sampling and analysis in the field of water within a period compatible with the requirements of the follow-up;

(b) take account of the substances concerned in standardisation work in the field of materials which come into contact with water (to which Directive 89/106/EC on 'construction products' applies).

Justification

Self-explanatory.