

# EUROPEAN PARLIAMENT

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*Session document*

FINAL  
**A5-0099/2003**

25 March 2003

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a European Parliament and Council Directive amending, for the twenty-fifth time, Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (substances classified as carcinogens, mutagens or substances toxic to reproduction - c/m/r) (15703/2/2002 – C5-0013/2003 and 15703/2/2002 REV 2 COR 1 - C5-0013/2003/COR – 2002/0040(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Inger Schörling

***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 the sitting of 11 June 2002 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive amending, for the twenty-fifth time, Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (substances classified as carcinogens, mutagens or substances toxic to reproduction - c/m/r) (COM(2002) 70 - 2002/0040 (COD)).

At the sitting of 30 January 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 (15703/2/2002 - C5-0013/2003). At the sitting of 13 March 2003 the President of Parliament announced that a corrigendum to the common position had been received (15703/2/2002 REV 2 COR 1 - C5-0013/2003/COR)

The committee had appointed Inger Schörling rapporteur at its meeting of 20 February 2002.

It considered the common position and draft recommendation for second reading at its meetings of 19 March 2003 and 25 March 2003.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Caroline F. Jackson, chairman; Mauro Nobilia, Alexander de Roo and Guido Sacconi, vice-chairmen, Emmanouil Bakopoulos (for Pernille Frahm), Hans Blokland, David Robert Bowe, John Bowis, Philip Bushill-Matthews (for María del Pilar Ayuso González), Dorette Corbey, Chris Davies, Avril Doyle, Jillian Evans (for Hiltrud Breyer), Anne Ferreira, Christel Fiebiger (for Mihail Papayannakis), Karl-Heinz Florenz, Cristina García-Orcóyen Tormo, Laura González Álvarez, Robert Goodwill, Françoise Grossetête, Christa Kläß, Eija-Riitta Anneli Korhola, Bernd Lange, Peter Liese, Torben Lund, Minerva Melpomeni Malliori, Rosemarie Müller, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Karin Scheele, Horst Schnellhardt, Renate Sommer (for Martin Callanan), María Sornosa Martínez, Catherine Stihler, Nicole Thomas-Mauro, Antonios Trakatellis and Kathleen Van Brempt.

The recommendation for second reading was tabled on 25 March 2003.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive amending, for the twenty-fifth time, Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (substances classified as carcinogens, mutagens or substances toxic to reproduction - c/m/r) (15703/2/2002 – C5-0013/2003 and 15703/2/2002 REV 2 COR 1 - C5-0013/2003/COR – 2002/0040(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (15703/2/2002 – C5-0013/2003 and 15703/2/2002 REV 2 COR 1 - C5-0013/2003/COR),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2002) 70<sup>2</sup>),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 78 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0099/2003),
1. Approves the common position;
  2. Notes that the act is adopted in accordance with the common position;
  3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  4. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in the OJ

<sup>2</sup> OJ C 126, 28.05.2002, P. 398.

## EXPLANATORY STATEMENT

The draft Directive seeks to amend for the twenty-fifth time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations. It proposes to add a list of substances classified as category 1 or 2 carcinogens, mutagens or substances toxic to reproduction (CMR) to Annex I of Directive 76/769/EEC. Inclusion in the Annex stipulates that these substances, or preparations containing them, may not be placed on the market for sale to the general public. The proposal covers a total of 44 substances. Substances are defined as individual compounds, and preparations are defined as mixtures or solutions of compounds.

The amendments adopted by the European Parliament in first reading tried to address two deficiencies in existing legislation. Firstly, the Parliament requested that the use of CMR substances in consumer articles (e.g. in toys, textiles, flooring), which represent a main source of exposure to these chemicals, are also banned, and that the Commission presents a proposal to this end. Secondly, it wanted to lift the derogation for cosmetic products.

The Council has rejected all amendments adopted by the European Parliament, although it shared the concerns of the Parliament.

### A. Consumer articles

With regard to articles the Council gives three main reasons for its rejection of the Parliament's amendments.

Firstly, it states that it would lack a scientific evaluation or a risk assessment. However, the evaluation that was made for substances and preparations according to the Commission's proposal and which is accepted as a basis for prohibiting their marketing and use by the general public is the following: "Due to the fact that use of chemicals by consumers cannot be controlled, safety can only be ensured by prohibiting use by consumers of CMR substances and preparations". There is no reason why the same assessment should not be valid for the use of CMR substances in consumer articles, all the more that consumers are also and often primarily exposed to these substances via articles.

Secondly, it refers to the very high number of CMR substances and that these were contained in an "indefinite number of products". It is difficult to understand how such an alarming acknowledgement can be used to justify inaction. Precisely because of the indefinite number of products, the only possibility to adequately protect consumers from exposure to CMR substances is to phase out their use as well in articles.

Thirdly, it notes that the issue will be addressed in the context of the development of a new chemicals policy. While the intentions for a new chemicals policy are welcome, it will still take a long time until the new provisions will come into force. Actions on CMR substances in consumer articles however should be taken as soon as possible if human health is to be adequately protected.

To summarise, the rapporteur does not accept the arguments of the Council. However, given the extensive discussion of the matter during the conciliation on the analogous 23rd amendment to directive 76/769/EEC, the rapporteur sees no benefit in repeating the

discussion.

#### B. Cosmetic products

The Council has rejected the amendments of the European Parliament as it was of the opinion that the use of CMR substances in cosmetics should be dealt with in the framework of the cosmetics directive. Given the recent agreement in conciliation to ban CMR substances of category 1 and 2 in the 7th amendment to the cosmetics directive, the rapporteur therefore agrees that the issue has been settled satisfactorily.

In conclusion, the rapporteur suggests to approve the common position without amendments.