



**COUNCIL OF  
THE EUROPEAN UNION**

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**STATEMENT OF THE COUNCIL'S REASONS**

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Subject: Position of the Council adopted at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on textile fibre names and related labelling and marking of fibre composition of textile products and repealing Council Directive 73/44/EEC, Directive 96/73/EC and Directive 2008/121/EC

– Statement of the Council's reasons

Adopted by the Council on 6 December 2010

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## DRAFT STATEMENT OF THE COUNCIL'S REASONS

### I. INTRODUCTION

On 2 February 2009, the Commission presented its proposal for a Regulation of the European Parliament and the Council on textile names and related labelling of textile products.<sup>1</sup> The proposal was originally based on Article 95 of the Treaty.<sup>2</sup> It was accompanied by an Impact Assessment.

The European Parliament delivered its opinion at first reading on 18 May 2010<sup>3</sup>.

The Economic and Social Committee has delivered its opinion on 16 December 2009.<sup>4</sup>

On 13 September 2010, the Council confirmed a political agreement with a view to an adoption of a Position at first reading at a later stage in accordance with Article 294 (5) TFEU.

On 6 December 2010 the Council adopted its Position at first reading on the proposal as set out in doc. 13807/10.

### II. OBJECTIVE

The objective of the above-mentioned proposal was to merge and to simplify three existing Directives on Textile Names and Labelling<sup>5</sup>. In doing so, the existing regulatory framework for the development and uptake of novel textile fibres should be improved, with a view to encouraging innovation in the textile and clothing sector and to allowing fibre users and consumers to benefit faster from innovative products.

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<sup>1</sup> OJ C 76 of 25.3.2010.

<sup>2</sup> The legal base has been changed to Art. 114 TFEU through the Lisbon Treaty.

<sup>3</sup> Council doc. 9905/10; not yet published in OJ.

<sup>4</sup> INT/477 - CESE 1928/2009 - 2009/0006 (COD); not yet published in OJ.

<sup>5</sup> Directives 2008/121/EC, 96/73/EC (as amended) and 73/44/EEC.

The proposed regulation should also enhance the transparency of the process to add new fibres to the list of harmonised fibre names and should introduce more flexibility to adapt legislation through delegated acts in order to keep up with the needs of the technological developments expected in the textiles industry.

It was not the aim of the original Commission proposal to extend existing EU legislation to other issues on labelling requirements beyond the fibre composition and the harmonisation of textile fibre names covered by the existing Directives.

### **III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING<sup>1</sup>**

#### **1. General**

The text on which a political agreement was reached in the Council maintains all the objectives of the Commission proposal. It mainly took on board those amendments adopted by the European Parliament in first reading which are compatible with the original objective of the proposal. The new features introduced during the negotiations in the Council Working Party concern the definition of agreed allowances, some technical clarification and updating in the annexes and a transitional provision for textile products being in stock and fulfilling all requirements of the current Directives.

Furthermore, a new element introduced by the Council is the set of provisions transferring the Regulatory Procedure with Scrutiny (PRAC) into the new procedure for "delegated acts" according to the Lisbon Treaty (TFEU).

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<sup>1</sup> Note: The numbering of articles either refers to the result of the first reading of Parliament (doc. 9905/10) or, where it is specially indicated ("now:...") to the document reflecting the Position of the Council at first reading (doc. 13807/10).

## 2. **EP amendments**

At its first reading the European Parliament has adopted 63 amendments to the text,<sup>1</sup> among which the amendments 9 and 26, amendments 10 and 11, amendments 12, 47, 48, 49, 50, 51 together, amendments 13 and 31 as well as amendments 53, 54, 55 and 56 can each be treated as combined amendments, given that they arise out of logical consequence or cover the same subject. During the negotiations in the Working Party, the Council scrutinized the EP amendments at a number of occasions. In the end, the Council accepted the majority of the EP amendments (40) at least in part, some of them in substance, some also in exact wording. 23 amendments by the EP were finally rejected by the Council.

### 2.1. **EP amendments accepted by the Council and integrated into the text of the Position at first reading**

Amendments 1, 3, 6, 8, 15, 17, 22, 34, 35, 39, 40, 41, 42, 46, 52, 57, 61 were incorporated into the Council text practically in exact wording, given that the Council supported more or less the justification as evoked by the European Parliament.

### 2.2. **EP amendments accepted in principle or partly, but introduced to the text with modifications**

#### **Amendment 2 - Recital 2 (Union legislation; Fibre names)**

The amendment is of editorial nature and as such not particularly controversial. The Council text currently incorporates only part of it.

#### **Amendment 5 - Recital 9, now: recital 10 (Making available on the market)**

The Council took the view that an alignment along the lines of the EP amendment is not indispensable for the wording of a recital.

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<sup>1</sup> (Not voted: 4, 18, 20, 28, 67, 68, 69, 70, 71.)

**Amendment 7 - Recital 12, now: recital 13 (Adaptation of uniform methods to technical progress)**

The Council shares the spirit of the amendment but is of the opinion that its own text is better drafted than the EP amendment.

**Amendment 10 and 11 - Recitals 17 and 18 (Adaptation of recitals to "delegated acts")**

The Council supported the principle of the EP amendments in order to adapt the current proposal to the new legal situation concerning "delegated acts" following the Lisbon Treaty. While recital 17 has been deleted as suggested in the EP amendment, the new wording of recital 18 differs from the EP wording, however mainly for editorial reasons.

**Amendment 14 - Recital 19b (new) (Reporting on new labelling requirements for the future)**

The Council acknowledged that the EP is interested in new labelling requirements for the future which might then reflect the interests of industry and consumers as well as technical developments but which cannot yet be realised within the current legal act. The Council however thinks that any routes for future legal activity could be explored via the general reporting requirement for the Commission under Article 21, now: Article 24. This notwithstanding, a recital with a shorter wording might find more support by the Council.

**Amendment 16 - Article 1 (Subject-matter)**

The Council is in favour of the spirit and most parts of the EP amendment. However, regarding the purpose of the regulation the wording "functioning of the internal market" is preferred by the Council as being more comprehensive and exact for a piece of Community harmonisation legislation compared to the suggested wording of the amendment "free circulation".

### **Amendment 21 - Article 2 (Definition of "labelling")**

At this stage, the Council uses two different definitions for "labelling" and "marking" while the provisions and requirements of this Regulation do - as a rule - apply for both of them. The Council used this procedure for reasons of clarity. The EP amendment seeks to subsume the notion of marking into the overall concept of "labelling" in order to make the other references in the text easier to read. In the end, the difference seems of editorial nature, as only for the concept of "inclusive labelling" the described ways of marking do normally not come into play, which does not however pose any problems in legal terms.

### **Amendment 23 - Article 4 (General rules for placing on the market)**

The Council accepted the amendment in part. One of the two differences between the Council text and the EP amendment simply logically follows from the utilisation of "marking" in the Council text (see amendment 21); the other one is of editorial nature only.

### **Amendment 25 - Article 5 (Textile fibre names)**

The Council accepted the spirit of the EP amendment but prefers its own wording, the difference being rather of an editorial nature.

### **Amendment 27 - Article 7 (2) (Pure textile products)**

The Council supports the intention and the main parts of the EP amendment, but would furthermore insist on a clarifying link to Article 8 ("Fleece or virgin wool products").

### **Amendment 29 - Article 8 (3) (Extraneous fibres present in wool)**

The Council supported most parts of the EP amendment but prefers a clarification in the end of the paragraph in line with the wording of Article 7 and Article 18 (now: Article 19).

**Amendment 32 - Article 11, now: Article 13 (Labelling)**

The Council accepted large parts of this amendment. However, concerning the terms "normal period of use" and "minimise discomfort", the Council prefers to leave them out of the article, because they do not seem to be legally enforceable.

**Amendment 33 - Article 11, now: Article 14 (Responsibility for labelling information)**

The Council accepted most of the EP amendment and its spirit behind. Concerning the exact wording and the logical order of paragraphs the Council would however consider its own text more appropriate.

**Amendment 36 - Article 12 (2), now: Article 15 (1) (Visibility and legibility of information)**

The Council accepted most of the wording suggested in the amendment, leaving out only the references to "letter/number size, style".

**Amendment 43 - Article 17 (2), now: Article 18 (Determination of fibre composition)**

The Council accepted the amendment but introduced the whole paragraph as the first paragraph of a new, separate article "Determination of fibre composition".

**Amendment 44 - Article 17 (2) new subparagraph 2 a, now: Article 18 (Non-considerations of items listed in Annex VII)**

The Council accepted the amendment but introduced the whole paragraph as the second paragraph of a new, separate article "Determination of fibre composition".

### **Amendment 45 - Article 17 (3), now: Article 18 (Methods used by laboratories)**

The Council accepted the second part of the amendment which serves mainly clarification purposes. The first part which aims at requiring an accreditation for every laboratory that fulfils this service function for the authorities was rejected as being too restrictive and too burdensome.

### **Amendments 53, 54, 55 and 56 - Articles 19-19c, now: Article 20-23 (Provisions on delegated acts)**

The Council accepted the spirit and most of the wording of these amendments being necessary as a consequence of the Lisbon Treaty. In certain parts of these articles the Council however considered its own wording as more appropriate, for example regarding the expiry date of the delegation of powers. For those material issues where the Council did not accept the insertion in the articles anyway, the possibility of delegated acts had to be left out consequentially.

### **Amendment 60 - Article 21a, now: Article 25 (Transitional provision)**

While the material difference between the Council text and the EP amendment is minor, the Council takes the view that its own wording is legally clearer.

### **2.3. Amendments being rejected and thus not integrated into the Council text**

#### **Amendments 9 and 26 - Recital 16, now: recital 17 and Article 6 (1) (Representative of the manufacturer)**

The Council considers its own wording for the recital and the article to be clearer. In view of the EP, the word "representative" apparently does not restrict the meaning to "authorised representative" as a specific economic operator, however, the Council prefers its own wording "person acting on his behalf" as being clearer in this regard. The EP amendments are not fully consistent.



**Amendments 12, 47, 48, 49, 50, 51 - Recital 18a new; Articles 18a-18d (new) (Country-of-origin labelling)**

The Council did not support an obligatory country-of-origin labelling. First, the topic seems to fall outside the scope of this regulation dealing with textile names and the consolidation of obligations which are already present in current law. Secondly, the country-of-origin labelling would somewhat interfere with proposals for horizontal legal acts where an overall solution to the problem is currently being searched for.

**Amendment 66 - Recital 18b (new) (Relationship between country-of-origin labelling in this legal act and in other legal acts)**

Although the wording of the recital as such would not pose any problems of substance, it had to be rejected as a consequence of rejecting amendments 12, 47-51 on mandatory country-of-origin labelling. The recital might be acceptable, if it would have been linked to a more voluntary scheme of country-of-origin labelling.

**Amendments 13 and 31 - Recital 19a and Article 10a (new) (Animal-derived products)**

The Council rejected these amendments. Neither the scope and purpose of these provisions is very clear, nor is the legal drafting satisfactory. The category of animal-derived fibres would show an overlap with several fibres already integrated in Annex I and being subject to far more exact labelling provisions under current law. On the other hand, obligatory labelling of non-fibrous animal material would be clearly outside the scope of this regulation, while the term "non-textile" material is not defined at all. A direct protection of certain endangered species can probably not be achieved by such a too generic provision. All-in-all, the justification for these amendments can be better validated through Member State provisions.

#### **Amendment 19 - Article 2 (2) (da) (new) (Custom-made articles)**

The Council considered the amendment and the possible burden for producers of individual articles that arises from labelling. However, given that sufficient consumer information should also be a valid concern for custom-made articles and that there is in the meantime a growing market of mass-customised articles, a total exemption of custom-made articles from the requirements of this Regulation did not find support in the Council.

#### **Amendment 24 - Article 4 (2) (Safeguard clause)**

The Council deleted the whole paragraph as misleading and not indispensable as a provision within this Regulation. It was thus technically impossible to integrate the amendment by the European Parliament.

#### **Amendment 30 - Article 9 (Multi-fibre products)**

The Council rejected the amendment as it preferred to stick closer to the Commission proposal.

#### **Amendment 72 - Article 12 (4), first sub-paragraph, now: Article 15 (3) (Language provision and symbols)**

The Council rejected the amendment. Firstly, the Council provision on "language" gives more freedom to certain Member States to allow also other languages than the official one(s); secondly the Council had severe problems in accepting language-independent symbols which are currently neither harmonised nor well-known to customers.

#### **Amendment 37 -Article 12 (4) second-sub-paragraph; now: Article 15 (3) (Provision on inclusive labelling)**

The Council rejected this amendment for the same reasons as amendment 72.

**Amendment 38 - Article 12 (4) new sub-paragraph, now: Article 15 (3) (Delegated acts for "symbols")**

The Council rejected this amendment as a consequence of rejecting amendments 72 and 37.

**Amendment 58 - Article 20a (new) (Review)**

The Council did not integrate this amendment into the text for the time being. While several items mentioned in this rather long review clause do indeed merit consideration, it appeared appropriate to discuss the whole amendment within an overall "package" on the material content and scope of the regulation. It could also be considered that some of the content is more appropriate for a recital.

**Amendment 59 - Article 21, now: Article 24 (Reporting)**

The Council preferred to maintain the five-year-period. Furthermore the addition suggested by the EP does not add to clarity as legislative initiatives of the Commission should always be accompanied by a justification.

**Amendment 62 - Annex IIa - Indent 5a (Tests for allergenic reactions)**

The Council did not integrate this amendment as there is at least the need for some clarification and explanations from the EP side and the wording could be improved.

**Amendment 64 - Annex V - point 13 (Deletion of "felts")**

The Council considers the inclusion of felts into mandatory labelling as a minor point. As an acceptance of the amendment would at least imply some additional burden for enterprises involved, the Council was not in a position to integrate the amendment.

**Amendment 65 - Annex V - point 17 (Deletion of "felt hats")**

Rejection of this amendment follows the same reasoning as for amendment 64.

### **Amendments 63 - Annex V - point 24 (Deletion of "toys")**

The Council took the view that the practical relevance of this amendment is rather minor. Although it is possible to limit the overlap with the Directive on the safety of toys, there does not seem an absolute necessity to include (textile) toys into all labelling requirements.

### **3. Most important innovations to the text introduced by the Council**

#### **Article 3 (i) (Definition of "agreed allowance")**

The Council considered it appropriate to include a definition of "agreed allowance" as this term is widely used in the Regulation, in particular in Annex VIII.

#### **Article 25 (now) Transitional provision**

The Council clarified through this transitional provision that the products being placed on the market in accordance with current law may still be sold for around 2 and a half year. With this provision the relative limited changes to the current regime should not result in a burdensome re-labelling of so far correctly labelled textiles.

#### **Articles 20-23 (now) Delegated acts**

Following the entry into force of the TFEU, certain provisions originally intended to fall under the PRAC have been integrated into new articles setting out the procedure for delegated acts (according to Art. 290 TFEU).

#### 4. CONCLUSION

The Position at first reading adopted by the Council underlines the main objective of the Commission's proposal. A unified, but flexible framework for textile labelling requirements and a fast procedure to integrate new fibre names should be attainable, while fully accepting the importance of the information requirements for the users of textile products. Through the use of the provisions concerning "delegated acts" the current framework for textile names and labelling can be adapted in a fast and efficient way.

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