

## 2) Positive and negative features of the draft Regulations:

One of the positive features is the evident will to distinguish between primary and final biodegradability, as we should not be satisfied if a substance is 80% biodegradable in a few weeks. The residual fraction that remains in the environment for several months, as has been frequently described, and this accumulation causes phenomena due to their presence at interfaces, with concentration at the water surface layer and in sediments. Furthermore, the expert debate on the methodological conditions, indicates that evaluation of final biodegradability by the methods listed in Appendix II is acceptable, provided the general degree of biodegradability required, which is now set at 60 %, is raised to 70 %.

Another positive feature is labelling, since the revised regulations provide greater transparency and more information to the consumer. But here again, this labelling must specifically refer to the degree of biodegradability measured for the active components, which is not the case.

It can also be seen from Appendices V, VI and VII that the draft Regulations envisages a case-by-case assessment for according derogation based on specific complementary tests, or restricting or prohibiting substances considered to be too dangerous. But the present text is unclear on several points.

- With reference to the detergents (surfactants) in Appendix V that may obtain a derogation, the European Unions should determine the acceptable cost of this provision, for which it should not simply specify the general conditions set out in article 6 (amounts used, distribution, relative advantages in social-economic, environmental or human health terms) but provide the means for setting the maximum tonnage used taking into account specific technical requirements and the means of appropriate treatment for their removal.
- In all cases, the minimum regulation set out in article 12 must state that the surfactants that do not satisfy the norms set out in Appendix III must at least comply with those in Appendix II, which excludes certain points in the derogation system.
- Above all, the evaluation of the environmental impact set out in Appendix IV is too short. The tests are restricted to evaluating the impact of acute toxicity, on certain fish, algae and daphnia, while the most worrying problem is that of the chronic toxicity of these surfactants. It is thus inconceivable that new tests are not adopted so as to take account of these effects, particularly on plants, but also on marine and freshwater systems. Therefore, in the light of these loopholes in the draft regulations, we propose that the European parliament requests the Commission to provide it with additional draft legislation in the two years immediately following adoption of the new regulations, at the same time as measures designed to integrate the norms for anaerobic biodegradability (without oxygen) and the replacement of phosphates.

## 3) The main weaknesses in the present proposals:

The first concerns the methods accepted for determining the primary degradation of surfactants. We are concerned about the confirmation of colorimetric methods, in addition to the general requirement of 80% breakdown, which remains unchanged from earlier legislation. These methods become « blind » above a certain percentage breakdown (for example, for the ABS or some non-ionic detergents). It is thus desirable to use a batch test method that allows monitoring of biodegradation over time, with extension of the analytical test to include chromatographic (HPLC) or electrochemical methods.

Second, we are concerned by the impasse in the evaluation of metabolite toxicity. This is not because this is a detergent regulation that omits what current impact studies tend to

emphasize, such as the impact of metabolites, about which our incomplete knowledge makes it impossible to be disinterested.

The third concerns the failure to openly introduce a new category of detergent that can be described as « readily or totally degradable ».

This is especially odd as an earlier version of the draft did so. This dimension is now important, as we insisted in a letter dated February 2, 2000, as part of an exchange of correspondence with the Commission. This is why we believe it is essential to reintroduce this approach. Many consumers have clearly expressed their concern about acting responsibly in their purchases. As these products already exist, and as they perform better, in many respects, than petroleum-based detergents, tests and labelling should inform the consumer of their existence.

#### 4) The proposals of our Association :

##### Amendment 1 :

**This concerns article 31. The end of the paragraph should be changed to :**

*« ...and, to this end, the Commission should, in the two years following adoption of the present Regulations, submit draft legislation designed to regulate the phosphate content of detergents and normalize their anaerobic biodegradability together with evaluation of the breakdown products of the active components »*

##### Amendment 2 :

**We propose the following amendment to article 2 in order to re-establish and improve the notion of easy biodegradability:**

*8 bis : « A substance that is easily and completely biodegradable ». These substances are at least 60 % biodegradable in 3 days and at least 90 % in 7 days ».*

##### Amendment 3 :

**Remove the last part of point 2 of article 5 starting from :« that do not conform to...appendices II and III ».**

##### Amendment 4 :

**We propose the following amendment to article 5 to give a new 7<sup>th</sup> line. This provides a precise definition of the conditions of acceptability in appendix V :**

*«The Commission will provide, in the two years following adoption of the Regulations, a report setting out the requirements of each technological and/or industrial area for the surfactants listed in Appendix V. This report will show the possible replacement reagents that are presently available by describing their specific environmental impact. The Commission will submit proposals designed to restrict the overall quantities used of each of the substances listed in Appendix V. »*

##### Amendment 5 :

**The degree of final biodegradability set by the current proposal of the Commission is 60% (EN ISO 14593 : 1999) or 70% (other methods in directive 67/548/CEE). This is too low. It exempts several families of widely used surfactants that pose problems of residue accumulation in the environment and produce toxic breakdown**

products (particularly aromatic nuclei). We propose the following amendment to point A of Appendix III, 2nd paragraph. « The surfactants in detergents are considered to be biodegradable if their biodegradability is at least 70% in 14 days », and for point B of Appendix III, 2nd paragraph : « the criterion of success of at least 80% for these methods should be considered... »

This will require changes to the values in paragraphs B1 and B2.

Amendment 6 :

Concerns Appendix VI. Remove « or constraint » from the title

Amendment 7 :

Concerns Appendix VII. Remove « or constraint » from the title

Amendment 8 :

Two amendments concern Appendix VIII.

The first concerns the threshold of added components :

In Appendix VIII, paragraph A, line 10, replace 0.2% by weight by: « ...0.05% by weight : »

The second requires that the things that must be listed on the package include the degree of biodegradability of the surfactants in the product, by adding an extra line.

« the degrees of final and /or primary biodegradability, in %, obtained in tests ».

Amendment 9 :

We believe that the Regulations should include ecotoxicity tests that take into account the whole commercial product. This should be included in an additional appendix, Appendix X , entitled :

« Methods and analyses of ecotoxicological tests on commercial products »

This appendix could be prepared using the procedure set out in article 12.

5) Conclusions :

While we subscribe to the logic that the internal market requires harmonization to avoid the entry of undesirable substances, particularly now when the EU is expanding, there is no point in producing a legislative net with a mesh so large that it allows several families of detergents to slip through. These detergents can now readily be abandoned or improved, as there are available substitutes that satisfy the environmental objectives of the EU.

Thus, in future, institutions will have to become involved in this debate and define the type of detergent and the requirements made of them, so that we will be aware of the consequences of the products we will use for the generation living in the early XXI century.

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