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(ii) A fourth subparagraph is added:

‘The information submitted by marketing authorisation holders and approved by the national authorities shall be sent to the Agency by those authorities and included in the database referred to in the first subparagraph, which shall be available to the public.’.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament
The President

For the Council
The President

Restriction of the use of certain hazardous substances in electrical and electronic equipment *I**

P7_TA(2010)0431

European Parliament legislative resolution of 24 November 2010 on the proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast) (COM(2008)0809 – C6-0471/2008 – 2008/0240(COD))

(2012/C 99 E/50)

(Ordinary legislative procedure: first reading - recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2008)0809),
- having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0471/2008),
- having regard to the Commission communication to Parliament and the Council entitled: ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
- having regard to Article 294(3) and Article 114 of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 10 June 2009 ⁽¹⁾,

⁽¹⁾ OJ C 306, 16.12.2009, p. 36.

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- having regard to the opinion of the Committee of the Regions of 4 December 2009 ⁽¹⁾,
 - having regard to the undertaking given by the Council representative by letter of 12 November 2010 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽²⁾,
 - having regard to the letter of 11 November 2009 from the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0196/2010),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Approves its statement annexed to this resolution;
 3. Takes note of the Commission statements annexed to this resolution;
 4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ OJ C 141, 29.5.2010, p. 55.

⁽²⁾ OJ C 77, 28.3.2002, p. 1.

P7_TC1-COD(2008)0240

Position of the European Parliament adopted at first reading on 24 November 2010 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2011/65/EU).

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ANNEX

Statements

Statement by the European Parliament

The European Parliament regrets that the Council was not prepared to accept the mandatory publication of correlation tables in the context of the recast of Directive 2002/95/EC. With a view to advancing a horizontal and inter-institutional solution of this matter, the European Parliament calls on the European Commission to make a report within six months after adoption of this agreement in plenary on the practice of Member States to draw up correlation tables in the field of EU environmental legislation and to make them public, including an assessment of how current practice affects the Commission's role of 'guardian of the Treaty' in controlling correct transposition of EU directives into national legislation in the field of environment protection.

Commission statement on the scope (Article 2(2))

The Commission interprets Article 2(2) that electrical and electronic equipment that was outside the scope of Directive 2002/95/EC, but which would be covered by the new Directive, does not need to comply with the requirements of this Directive during a transitional period of eight years.

EEE which was outside of the scope of Directive 2002/95/EC, but which would be covered by the new Directive, includes amongst others EEE covered by:

- the new category 11 in Annex I;
- the new definition of 'dependent' of Article 3(2);
- 'cables' mentioned in article 4 and the related definition in Article 3(5);
- two-wheel vehicles which are not type-approved (Article 2(4)(f)).

During the transitional period of eight years, in the Commission's interpretation, it follows from Article 2(2) that Member States are obliged to allow electrical and electronic equipment that was outside the scope of Directive 2002/95/EC, but which would be covered by the new Directive, to continue to be made available on their market.

Commission statement on the review (Article 24)

Pursuant to Article 24, the Commission intends to undertake, no later than three years after the entry into force of this Directive, an impact assessment (review) on Article 2 focussing on the changes in scope of this Directive compared to Directive 2002/95/EC which have not yet been impact-assessed.

This review, followed by a report to the Council and the European Parliament, may be accompanied by a legislative proposal, if the Commission deems appropriate. The extent of the review and of the legislative proposal remains to be determined by the Commission in accordance with its right of legislative initiative, in line with the Treaties.

Commission statement on nano-materials (recital 16 and Article 6)

The Commission notes that work towards a common definition on nanomaterials is still on-going and intends to adopt a Commission Recommendation on a common definition for all legislative sectors in the near future. The Commission considers that the RoHS provisions cover different forms (including nanoforms) of the substances which are currently banned and those which will be in the future subject to a priority review under RoHS.

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Commission statement on correlation tables

The Commissions recalls its commitment towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the EU directive and communicate them to the Commission in the framework of transposing EU legislation, in the interest of citizens, better-law making and increasing legal transparency and to assist the examination of the conformity of national rules with EU provisions.

The Commission regrets the lack of support for the provision included in the 2008 Commission proposal on the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast), which aimed at rendering the establishment of correlation tables obligatory.

The Commission, in a spirit of compromise and in order to ensure the immediate adoption of that proposal, can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice.

However, the position followed by the Commission in this file shall not be considered as a precedent. The Commission will continue its efforts with a view to finding, together with the European Parliament and the Council, an appropriate solution to this horizontal institutional issue.
