

**Translation of letter**

*From:* President of the Senate of the Italian Republic

*To:* President Barroso

*Dated:* 4 February 2011

*Ref.:* 464/UC

*Enclosures:* 1

I am pleased to send you the text of the resolutions adopted by the Committee on Land Planning, Environment and Environmental Assets of the Senate of the Italian Republic following its examination of the following acts:

- the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents (COM(2010) 597 final);
- the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (COM(2010) 611 final).

The resolutions contain comments on the compliance of these acts with the principles of subsidiarity and proportionality.

**SENATE OF THE REPUBLIC**

16<sup>th</sup> PARLIAMENTARY TERM

**RESOLUTION OF THE 13<sup>th</sup> STANDING COMMITTEE  
(Land Planning, Environment, Environmental Assets)**

*(Rapporteur: FLUTTERO)*

*approved in the session of 21 December 2010*

ON THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL AMENDING REGULATION (EC) NO 648/2004 AS  
REGARDS THE USE OF PHOSPHATES AND OTHER PHOSPHOROUS  
COMPOUNDS IN HOUSEHOLD LAUNDRY DETERGENTS (COM(2010) 597  
FINAL)**

*under Article 144(1) and (6) of the Rules of Procedure*

**Submitted to the President's Office on 21 December 2010**

## Text of the resolution

The Committee,

Having examined, in accordance with Article 144 of the Rules of Procedure of the Senate of the Republic, the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents;

Whereas the legal basis has been correctly identified in Article 114 of the Treaty on the Functioning of the European Union (TFEU) relating to the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market;

Having established that the proposal appears to comply with the principle of subsidiarity in that the laying down of a uniform standard at Union level is likely to improve the protection of the aquatic environment, especially with respect to water crossing national borders, while at the same time ensuring a well functioning internal market for detergents;

Having established that the proposal appears to comply with the principle of proportionality in that it is fully in keeping with the objectives pursued;

Gives a favourable opinion with the following comments.

In order to ensure that Union legislation continues to be of high quality, the title of the act should be changed to ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004’, thereby removing the reference to the use of phosphates and other phosphorous compounds in household laundry detergents. The scope of the Proposal for a Regulation is actually broader than this. Article 1(5) (which replaces Article 13 of Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004) delegates to the European Commission the power to adapt all eight Annexes to Regulation No 648/2004 to scientific and technical progress (Article 13(1)) and to adopt amendments to them regarding solvent-based detergents (Article 13(2)). The subject-matter of the Annexes ranges from ‘Standards of accreditation, good laboratory practice and animal protection concerning the laboratories that are competent and authorised to provide the necessary service for checking compliance of detergents with the requirements of this Regulation and its Annexes’ (Annex I) to ‘Labelling and ingredient datasheet’ (Annex VII). Therefore, while acknowledging that it is appropriate in the legislation in question to introduce the possibility of using the instruments laid down in the Treaty of Lisbon for creating secondary legislation, the Committee believes that the basic rules of legislative drafting should be followed; this includes ensuring that the substance is as homogeneous as possible and that the subject-matter and the title are consistent with one another.

The delegation of powers set out in Article 13a (which is inserted into Regulation (EC) No 648/2004 by the Proposal for a Regulation in question) should not be conferred for an indeterminate period of time since the second paragraph of Article 290(1) TFEU contains a clear obligation explicitly to define ‘the objectives, content, scope and duration of the delegation of power’ for such legislative acts.

## **OPINION OF THE 14<sup>th</sup> STANDING COMMITTEE**

(EUROPEAN UNION POLICIES)

(Rapporteur: ADERENTI)

17 November 2010

Having examined the Community act, the Committee,

Whereas the Proposal in question aims to amend Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents by introducing a limitation on the content of phosphates and other phosphorous compounds in household laundry detergents, in order to decrease detergents' contribution to the overall eutrophication of EU surface waters;

Whereas the Proposal was also drawn up following the conclusions of the evaluations and the impact assessment performed by the Commission, by means of studies and prior consultation of interested parties, pursuant to Article 16 of Regulation (EC) No 648/2004;

Comments favourably on the proposal, within its competence, and highlights the following points.

The legal basis seems to have been correctly identified in Article 114 of the Treaty on the Functioning of the European Union relating to the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market;

The proposal appears to comply with the principle of subsidiarity in that laying down a uniform standard at Union level is likely to improve the protection of the aquatic environment, especially with respect to water crossing national borders, while at the same time ensuring a well functioning internal market for detergents;

The proposal appears to comply with the principle of proportionality in that it is fully in keeping with the objectives pursued;

In order to ensure that Union legislation continues to be of high quality, it is suggested that the title of the act should be changed to 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004', thereby removing the reference to the use of phosphates and other phosphorous compounds in household laundry detergents. The scope of the Proposal for a Regulation is actually broader than this. Article 1(5) (which replaces Article 13 of Regulation (EC) No 648/2004) delegates to the European Commission the power to adapt all eight Annexes to Regulation No 648/2004 to scientific and technical progress (Article 13(1)) and to adopt amendments to them regarding solvent-based detergents (Article 13(2)). The subject-matter of the Annexes ranges from 'Standards of accreditation, good laboratory practice and animal protection concerning the laboratories that are competent and authorised to provide the necessary service for checking compliance of detergents with the requirements of this Regulation and its Annexes' (Annex I) to 'Labelling and ingredient datasheet' (Annex VII). Therefore, while acknowledging that it is appropriate in the legislation in question to introduce the possibility of using the instruments laid down in the Treaty of Lisbon for creating secondary legislation, the Committee believes that the basic rules of legislative drafting should be followed; this

includes ensuring that the substance is as homogeneous as possible and that the subject-matter and the title are consistent with one another;

With respect to the delegation of powers in Article 13a, which is inserted into Regulation (EC) No 648/2004 by the Proposal for a Regulation in question, the misgivings already expressed on numerous occasions by the 14<sup>th</sup> Committee of the Senate of the Republic are reiterated here regarding the conferral of a delegation of power for an indeterminate period of time when the second paragraph of Article 290(1) TFEU contains a clear obligation explicitly to define 'the objectives, content, scope and duration of the delegation of power' for such legislative acts.