

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to the installation of lighting and light-signalling devices on wheeled agricultural and forestry tractors'**

COM(2007) 192 final — 2007/0066 (COD)

(2007/C 175/10)

On 11 May 2007 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

Considering that the content of the proposal is entirely satisfactory and requires no comment on its part, the Committee, at its 436th plenary session, held on 30 and 31 May 2007 (meeting of 30 May), approved the proposed text by 162 votes to 1 with 8 abstentions.

Brussels, 30 May 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and the Council concerning the export and import of dangerous chemicals'**

COM(2006) 745 final — 2006/0246 (COD)

(2007/C 175/11)

On 21 December 2006, the Council decided to consult the European Economic and Social Committee, under Articles 133 and 175(1) of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2007. The rapporteur was Mr Pezzini.

At its 436th plenary session, held on 30 and 31 May 2007 (meeting of 30 May 2007), the European Economic and Social Committee adopted the following opinion by 148 votes to 2 with 1 abstention.

## 1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) has always supported the active role played by the European Commission in introducing and implementing the Rotterdam Convention on the prior informed consent (PIC) procedure for hazardous chemicals and pesticides in international trade, together with the Stockholm Convention on Persistent Organic Pollutants (POP).

1.2 The Committee agrees that a harmonised approach by the Commission is necessary, aimed at improving the protection of human health and the environment in importing countries, especially developing countries. It also agrees on the need to use streamlined, clear and transparent mechanisms based on

smooth, uniform procedures to ensure the prompt provision of proper information, to countries that import dangerous chemical products and substances.

1.3 The Committee considers that the more stringent provisions under Regulation (EC) 304/2003, which was annulled by the Court of Justice on the grounds of its wrong legal basis, and reinstated in the present proposal for a new regulation are a key element in overall safety and the management of dangerous chemicals.

1.4 The Committee supports the Commission's aim to use the opportunity provided by the correction of the legal basis of the regulation in order to increase the effectiveness of the

Community instrument and boost legal certainty, tying in closely with Regulation (EC) No 1907/2006 on chemicals legislation (REACH) which is to come into force in June 2007.

1.5 In the Committee's view, the new legislation should include provisions on, firstly, the drafting of practical guides and information documents and, secondly, the organisation of training courses based on Community standards, intended primarily for customs officials, with contributions from relevant Commission and, in particular, Joint Research Centre (JRC) staff.

1.5.1 The Committee emphasises the importance of using the language of the importing country on labelling and the safety data sheets.

1.6 The EESC warmly welcomes the fact that provision is made for exports to proceed on a temporary basis, while further efforts are made to obtain explicit consent.

1.7 The EESC is convinced that the key to the effective, smooth and transparent functioning of the proposed mechanisms lies in the customs control arrangements, and in full cooperation between the customs authorities and the national authorities designated to apply the regulation (DNAs).

1.8 The Committee emphasises that it is essential for the proposed improvements to the Combined Nomenclature, and the development of a version of the EDEXIM database specifically for customs authorities, to be backed by information and training initiatives that are systematic and harmonised at Community level.

1.8.1 The EESC views the financial and human resources available to the Commission and, in particular, the JRC for this purpose to be entirely inadequate to the task of:

- preparing harmonised information and training packages, and guides for the various categories of user;
- ensuring the accuracy of safety data sheets for intermediate and final users, especially workers;
- establishing a dialogue with technical assistance to importing countries, especially developing countries and those with transitional economies;
- ensuring greater awareness in civil society of existing risks and how to prevent them.

## 2. Reasons

2.1 The European Committee has previously <sup>(1)</sup> expressed its support for the aims and mechanisms of the Rotterdam Convention <sup>(2)</sup>, which set up a prior informed consent procedure for the export and import of dangerous chemicals, at the same time improving access to information and providing technical assistance to developing countries.

2.2 The Committee agreed with the views of Member States, that it was 'appropriate to go beyond the provisions of the convention in order to fully assist developing countries' <sup>(3)</sup>.

2.3 Regulation (EC) No 304/2003 concerning the export and import of dangerous chemicals, which was adopted on 18 January 2003 and come into force on 7 March 2003, was in fact primarily aimed at implementing the Rotterdam Convention with regard to the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade.

2.3.1 However, the regulation contained some provisions which went beyond the requirements of the convention.

2.4 More specifically, the regulation stipulates that the exporter of a chemical listed therein must notify the designated national authority prior to the first intended export of the chemical. Once the notification has been checked for full compliance, it is forwarded to the Commission, which registers it in the EDEXIM database as notification of a Community export, specifying the product and the importing country.

2.5 Likewise, in the event of a Community import of a chemical from a third country, the Commission receives the relevant export notification, acknowledges receipt of the notification and registers it in the EDEXIM database.

2.6 More generally, the Commission is responsible for ensuring proper application of the regulation. In practice this means it must manage the export and import notifications.

<sup>(1)</sup> EESC Opinion of 20.6.2002 on the *Proposal for a Council Regulation concerning the export and import of dangerous chemicals*, OJ C 241 of 7.10.2002, p. 50.

<sup>(2)</sup> The Rotterdam Convention, which was signed on 11 September 1998 and came into force on 24 February 2004, governs the export and import of certain dangerous chemicals and pesticides, and is based on the fundamental principle of prior informed consent (PIC) on the part of the importer of a chemical product. More than 30 chemicals are currently covered by the PIC procedure under the terms of the Convention.

<sup>(3)</sup> See footnote 1.

2.7 The EU export notification procedure currently applies to some 130 chemical products and groups of products/substances, listed in Annex I, Part 1 of Regulation (EC) No 304/2003 <sup>(4)</sup>.

2.8 Lastly, clear obligations are imposed concerning packaging and labelling.

2.9 Regulation (EC) No 304/2003 also provides for penalties in the event of infringement, specifying that such penalties must be 'effective, proportional and dissuasive', and are to be determined by the Member States.

2.9.1 In addition, Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the registration, evaluation, authorisation and restriction of chemicals (REACH) was adopted on 18 December 2006, and will come into effect on 1 June 2007 <sup>(5)</sup>.

2.10 In its judgments in Cases C-94/03 and C-178/03 (both of 10 January 2006), the Court of Justice of the European Communities established that the legal basis of Regulation (EC) No 304/2003 should have Articles 133 and 175 of the EC Treaty and not on Article 175 alone and that, consequently, the regulation itself was annulled. The Court did however specify that the effects of the regulation would be maintained pending the adoption, within a reasonable period of time, of a new regulation founded on appropriate legal bases.

2.11 The report covering the 2003-2005 period <sup>(6)</sup>, presented on 30 November 2006 in accordance with Article 21 of Regulation (EC) No 304/2003, reviewed the following aspects:

- implementation to date of the regulation;
- problems encountered in the procedural phases;
- changes needed to increase its effectiveness.

2.12 All the Member States now have the necessary legislation and administrative systems for the implementation and enforcement of the Regulation: 2 273 export notifications have been made to date (more than 80 % of them originating from Germany, the United Kingdom, the Netherlands, France and Spain), while the number of importing countries rose from 70 in 2003 to 101 in 2005.

2.13 Customs control arrangements are the most sensitive part of the system. Closer cooperation between designated national authorities and the customs authorities is needed, with regular exchange of information and clearer provisions, particularly regarding the specific obligations of exporters and the application of improved control instruments to the Combined Nomenclature and the Integrated Tariff of the European Communities (TARIC).

<sup>(4)</sup> Subsequently amended by Commission Regulation (EC) No 777/2006.

<sup>(5)</sup> See ITACA No 3 (December 2006), p. 8 — Rome, Sergio Gigli.

<sup>(6)</sup> COM(2006) 747 final of 30 November 2006.

2.14 The Committee agrees that a harmonised approach by the Commission is necessary, aimed at improving the protection of human health and the environment in importing countries, especially developing countries. It also agrees on the need to use streamlined, clear and transparent mechanisms based on smooth, uniform procedures in order to ensure the prompt provision of proper information, free of red tape, to importing countries about EU exports of dangerous chemical products and substances.

### 3. The Commission proposal

3.1 In addition to rectifying the legal bases, which had led to Regulation (EC) No 304/2003 being annulled, the Commission's proposal for a new regulation introduced other changes, in the following areas:

- new legal bases;
- new definitions. The definition of 'exporter' needs to be extended, and the concept of 'preparation' needs to be corrected;
- a new explicit consent procedure;
- reinforcement and strengthening of customs control;
- new comitology rules <sup>(7)</sup>.

### 4. General comments

4.1 The Committee restates its full support for Community strategies in favour of sustainable development, including the voluntary SAICM framework <sup>(8)</sup>, and highlights the need for a preventive approach to chemicals management in order to guard against any harmful effects for human health and the environment, as it previously pointed out several times <sup>(9)</sup> in its contribution to the introduction of the REACH legislation.

4.2 The EESC thus supported the introduction of the REACH system, especially the move to make manufacturers, importers or users responsible for preparing documentation on chemicals with a view to registration and an initial risk assessment; for this reason the EESC supported the establishment of an EU registration system and of a Community body to manage it <sup>(10)</sup>.

4.2.1 In connection with the reporting requirements laid down by the specific rules on dangerous chemicals, the Committee urges the Commission to review the list of products posing a risk to human health and the environment, and to replace them with less dangerous products and preparations wherever practical alternatives have been prepared and tested as a result of technological research and innovation.

<sup>(7)</sup> See Decision 1999/468/EEC, as amended in July 2006.

<sup>(8)</sup> SAICM: Strategic Approach to International Chemicals Management — UNEP.

<sup>(9)</sup> See EESC opinions CESE 524/2004 and 850/2005 on chemicals legislation (REACH). OJ C 112 of 30.4.2004 and OJ C 294 of 25.11.2005.

<sup>(10)</sup> See EESC opinion CESE 524/2004, point 3.1. OJ C 112 of 30.4.2004.

4.3 The EESC has always supported the active role played by the European Commission in introducing and implementing the Rotterdam Convention on the PIC procedure for hazardous chemicals and pesticides in international trade, together with the Stockholm Convention on Persistent Organic Pollutants (POP), aimed at eliminating the production and use of certain chemical products, including nine types of pesticide. The Committee has also recently drawn up an opinion on this issue <sup>(11)</sup>.

4.4 The Committee considers that the more stringent provisions under Regulation (EC) 304/2003, which was annulled by the Court of Justice on the grounds of its wrong legal basis, and reinstated in the present proposal for a new regulation <sup>(12)</sup> are a key element in overall safety and the management of dangerous chemicals.

4.5 The Committee also believes that amendments should be made to the regulatory provisions, to close the operational loopholes and resolve the problems in implementation identified in the 2003-2005 report.

4.6 The Committee therefore supports the Commission's aim to use the opportunity provided by the correction of the legal basis of the regulation in accordance with the Court's judgment (on which the Committee drew up an opinion at the time <sup>(13)</sup>) in order to increase the effectiveness of the Community instrument by ensuring greater clarity, transparency and legal certainty for both exporters and importers.

4.7 The EESC considers that the legal certainty, consistency and transparency of the proposed new Community legislation should be ensured by means of better definitions of the terms 'exporter', 'preparation' and 'chemical subject to the PIC procedure'.

4.8 In order to contribute to the process of simplification, removing red tape and speeding up procedures, the EESC fully supports the provision to allow exports to proceed on a temporary basis, while further efforts are made to obtain explicit consent, together with the provision to waive the consent requirement for chemicals to be exported to OECD countries.

4.9 The Committee also stresses the importance of the fact that requests for consent and period review of consent are to be channelled through the Commission, in order to prevent unnecessary overlaps or duplication, as well as misunderstandings and uncertainty in importing countries. It considers that the financial and human resources allocated to Commission and, in particular, JRC services for this purpose must also be adequate to the task of providing harmonised information and training packages, guides and safety data sheets for the different categories of user and, lastly, a dialogue with the importing countries, especially developing countries, with a view to identifying and clarifying problems arising from import/export notifications.

4.9.1 Given the seriousness of the work accidents sometimes caused by dangerous chemical substances, and in the light of the international conventions of the ILO on this matter <sup>(14)</sup>, the Committee cannot overemphasise the importance of providing labelling information and safety data sheets in the language of the importing country. This would benefit intermediate and final consumers, especially those working in agriculture and SMEs.

4.10 The EESC is convinced that the key to the effective, smooth and transparent functioning of the mechanisms introduced under the proposed legislation lies in the customs control arrangements, and in full cooperation between the customs authorities and the national authorities designated to apply the regulation (DNAs). The proposed improvements, consisting in the inclusion of 'warning flags' in the Combined Nomenclature, and the development of a version of the EDEXIM database specifically for customs authorities, must be backed by information and training initiatives that are systematic and harmonised at Community level.

4.11 In the Committee's view, the preparation of practical guides and information documents, as well as training actions based on Community standards, should be stipulated in the new legislation, particularly for the newly-joined Member States.

Brussels, 30 May 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

<sup>(11)</sup> See opinion NAT/331, CESE 23/2007. OJ C 93 of 27.4.2007.

<sup>(12)</sup> Community provisions stipulate that notification must be given for the export of all chemical products/parasitocides which are banned or severely restricted in the EU, as well as for compounds containing such products, and the explicit consent of the importer must be obtained. This applies to products matching the criteria for PIC notification, even if they lie beyond the scope of the Convention and are not among those products already subject to the PIC procedure.

<sup>(13)</sup> See footnote 1, point 5.10.

<sup>(14)</sup> See Articles 7 and 8 of ILO Convention C 170 concerning Safety in the use of Chemicals at Work, 1990, and Articles 9, 10 and 22 of Convention C 174 concerning the Prevention of Major Industrial Accidents, 1993.