

Thursday 7 May 2009

Draft Commission regulation on REACH, as regards Annex XVII

P6_TA(2009)0390

European Parliament resolution of 7 May 2009 on draft Commission regulation amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), as regards Annex XVII

(2010/C 212 E/15)

The European Parliament,

- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency ⁽¹⁾, and in particular Article 131 thereof,
 - having regard to Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) ⁽²⁾,
 - having regard to Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) ⁽³⁾,
 - having regard to draft Commission regulation amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), as regards Annex XVII ('the draft Commission regulation'),
 - having regard to the opinion delivered by the committee referred to in Article 133 of Regulation (EC) No 1907/2006,
 - having regard to Article 5a(3)(b) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾,
 - having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas Regulation (EC) No 1907/2006 repeals and replaces Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, with effect from 1 June 2009,
- B. whereas Annex XVII to Regulation (EC) No 1907/2006, as amended by the annex to the draft Commission regulation, is intended to replace Annex I to Directive 76/769/EEC establishing restrictions for certain dangerous substances and preparations,
- C. whereas Article 67 of Regulation (EC) No 1907/2006 provides that substances, mixtures or articles may not be manufactured, placed on the market or used unless they comply with the conditions of any restrictions laid down in their regard in Annex XVII,

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ OJ L 263, 24.9.1983, p. 25.

⁽³⁾ OJ L 243, 24.9.1996, p. 31.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23.

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- D. whereas point 2, item 6 of the annex to the draft Commission regulation is aimed at extending the current ban regarding the placing on the market and use of asbestos fibres and of products containing those fibres to the manufacture of those fibres and articles containing asbestos fibres,
- E. whereas point 2, item 6 of the annex to the draft Commission regulation maintains exemptions from the ban on asbestos fibres:
- for articles containing asbestos fibres which were already installed or in service before 1 January 2005 under specific conditions ensuring a high level of protection of human health; and
 - for diaphragms containing chrysolite in existing electrolysis installations,
- F. whereas no new asbestos may be put onto the Community market, with the exception of diaphragms for electrolysis, and whereas there are specific Community provisions for the protection of workers from the risks related to exposure to asbestos at work when removing asbestos, and there are unfortunately no Community provisions on the decontamination of articles containing asbestos, leaving this to the competence of Member States,
- G. whereas asbestos remains responsible for a substantial number of diseases due to exposure to asbestos fibres,
- H. whereas Directive 96/59/EC has established obligations on Member States for the decontamination or disposal of equipment containing PCBs and/or the disposal of used PCBs in order to eliminate them completely; whereas the Community should take similar action on asbestos fibres,
- I. whereas Community legislation covers six asbestos minerals (crocidolite, amosite, anthophyllite, actinolite, tremolite and chrysotile), but does not yet cover asbestiform minerals such as richterite and winchite, even though they could be considered as being no less harmful than tremolite, amosite or crocidolite and could similarly be used in insulation materials,
- J. whereas, following receipt of the reports of Member States which are making use of the diaphragm exemption, the Commission will review the exemption and request the Agency to prepare a dossier in accordance with Article 69 of Regulation (EC) No 1907/2006 with a view to prohibiting the placing on the market and use of diaphragms containing chrysolite,
- K. whereas some stakeholders argue that the derogation must end now because substitute technologies (asbestos-free membranes) already exist and are being used by most European chemical manufacturers,
- L. whereas the most effective way of protecting human health would indeed be to prohibit the use of chrysotile asbestos fibres and products containing them, without any exemption,
- M. whereas there are now available for most remaining uses of chrysotile asbestos substitutes or alternatives which are not classified as carcinogens and are regarded as less dangerous,
- N. whereas, in the review concerning the derogation for chrysotile asbestos diaphragms conducted under Directive 76/769/EEC ⁽¹⁾, both health and economic impacts have been examined and taken into account in the differentiated approach taken by the Commission in the draft Commission regulation, supported by a large majority of Member States,

(1) http://ec.europa.eu/enterprise/chemicals/legislation/markrestr/index_en.htm

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1. In the light of
 - the approach taken by the draft Commission regulation to phase out asbestos fibres in the medium term,
 - the review of the derogation of chrysotile asbestos diaphragms conducted under Commission Directive 1999/77/EC, and
 - the statement made by the Commission on the occasion of the adoption of the draft Commission regulation in the committee referred to in Article 133 of Regulation (EC) No 1907/2006 on 20 February 2008,refrains from opposing the adoption of the draft Commission regulation;
 2. Notes the review concerning the derogation for chrysotile asbestos diaphragms and stresses that high-voltage installations can be successfully operated with substitute materials, and that some such installations in the EU have been converted;
 3. Underlines that currently four Member States still use asbestos diaphragms in installations of the low-voltage type for which no substitute diaphragm materials are available despite a considerable programme of research that has been carried out by the companies concerned;
 4. Stresses that, according to the review concerning the derogation for chrysotile asbestos diaphragms, the potential for worker exposure exists only when diaphragms need replacing (lifetime up to 10 years) because the electrolysis cells are hermetically sealed during operation to contain the chlorine gas, and industry reports that worker exposure limits for chrysotile are fully respected;
 5. Calls on the Member States and the Commission to ensure strict implementation of Directive 83/477/EEC;
 6. Regrets that it has so far been impossible to establish a European list of articles exempted from the ban under point 2, item 6 of the annex to the draft Commission regulation amending Annex XVII to Regulation (EC) No 1907/2006;
 7. Calls on the Commission to establish such a list immediately after communication of the relevant national measures, and no later than 1 January 2012;
 8. Urges the Commission to make a legislative proposal by the end of 2009 on the controlled disposal of asbestos fibres and the decontamination or disposal of equipment containing asbestos fibres in order to eliminate them completely;
 9. Urges the Commission, furthermore, to establish a strategy for banning all forms of asbestos and all uses of asbestos fibres by 2015, including appropriate export requirements in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and taking into account the principle of proximity as laid down in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, since asbestos remains responsible for a substantial number of diseases related to exposure to asbestos fibres;
 10. Calls on the Commission to report regularly to Parliament on the implementation of the draft Commission regulation;
 11. Instructs its President to forward this resolution to the Council and Commission, and the governments and the parliaments of the Member States.
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