

Opinion of the Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council relating to Fertilisers'

(2002/C 80/02)

On 15 October 2001 the Council decided to consult the Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 December 2001. The rapporteur was Mr Bento Gonçalves.

At its 387th plenary session on 16 and 17 January 2002 (meeting of 16 January) the Economic and Social Committee adopted the following opinion by 89 votes with five abstentions.

1. Introduction

1.1. The proposal for a Regulation of the European Parliament and of the Council relating to fertilisers, submitted by the Commission, aims to harmonise the 18 existing directives and combine them into a single more readable document, since they are at present highly complex and diverse.

1.1.1. The decision to make this a regulation is warranted by the fact that it is the instrument most suited to securing such a harmonised approach. A regulation will make implementation and monitoring easier for Member States and will also be more convenient for the general public and European firms.

1.2. The present proposal is the result of a recast of the previous texts; part of the new text has been copied from the previous directives, with a number of amendments to bring it in line with the new structure. The spirit of the text has not been significantly altered; however some points stand out:

- improvements to the wording of the texts;
- codification of the texts;
- changes to general and specific comments;
- technical specifications have been withdrawn from the legal text to be incorporated into the various annexes, thus making it simpler to use these rules and regulations and to add other groups of fertilisers without it being necessary to restructure the whole regulation.

2. Content and gist of the Commission document

2.1. The Commission's proposal is a recast of Council and Commission Directives on the approximation of the laws of

the Member States relating to fertilisers. It integrates within a single text the following Directives:

- Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilisers;
- Council Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilisers of high nitrogen content;
- Commission Directive 87/94/EEC of 8 December 1986 on the approximation of the laws of the Member States relating to procedures for the control of characteristics of, limits for and resistance to detonation of straight ammonium nitrate fertilisers of high nitrogen content;
- Commission Directive 77/535/EEC of 22 June 1977 on the approximation of the laws of the Member States relating to methods of sampling and analysis for fertilisers,

as well as the 14 amendments and adjustments to technical progress which have been made to these directives.

2.2. The SLIM⁽¹⁾ group's recommendations to address certain issues in the recast have been taken into account, as follows:

- a) establishment of an ad-hoc group to advise the Commission;
- b) criteria for the decision on new types of fertilisers (including organic);
- c) requirements for types of fertilisers to be added to the list;

⁽¹⁾ Simpler Legislation for the Internal Market.

- d) requirement for mixtures of fertilisers according to compatibility;
- e) requirements for peer-reviewing of dossiers of new types of fertilisers with health and safety concerns;
- f) conditions for adding new fertiliser groups;
- g) controls by a network of accredited laboratories and reports;
- h) study group on cadmium;
- i) mixture of fertilisers.

2.3. This recast, carried out without making any significant change to the content, has been structured in such a way as to exclude as far as possible all technical specifications from the legal text, including them in the annexes instead. Thus as a rule, the legal text has been kept as general as possible.

2.4. The technical annexes have been compiled from the original Directives and rearranged. The working group has reviewed the annexes and has made some changes, albeit minor ones. In particular, technical specifications on nutrient content have not been changed and tolerance levels have all been set out in the annex.

2.5. The legal instrument chosen is that of a regulation. This is justified by the many adaptations to technical progress that this legislation has been and will be subjected to.

3. General comments

3.1. This recast has been structured in such a way as to exclude as far as possible all technical specifications from the legal text, including them in the annexes instead. Thus as a rule, the legal text has been kept as general as possible. The fact that the various groups of fertilisers currently covered by the legislation have been classified in the annexes means that it is relatively simple to use this regulation and to add other groups of fertilisers to it, without it being necessary to restructure the whole regulation.

3.2. Community legislation on fertilisers aims to secure the free movement of these products throughout the European Union, while setting down the specifications that they must meet. These include composition, labelling and packaging.

3.3. The present proposal for a regulation is mainly addressed to the large chemical companies producing mineral fertilisers and to importers of mineral fertilisers from outside the European Union. Since this is a recast, no major changes to the industrial processes will be necessary.

4. Specific comments

4.1. List of the main changes to the text

4.1.1. The 1st, 2nd, 7th, 14th and 15th recitals are new.

4.1.2. Article 2 is new. Definitions have been given for the most important terms, the majority of which correspond to those used by the CEN (European Committee for Standardisation).

4.1.3. Article 4 was worded in such a way as to highlight the responsibilities of the person (manufacturer or importer) placing the fertilisers on the market.

4.1.4. Article 9 (basically adapted from Article 4 and from Annex II of Directive 76/116/EEC, Article 1 of Directive 88/183/EEC and Article 4 of Directive 89/530/EEC) includes new references in the last indent of paragraph a): 'For blended fertilisers' and 'blend' after the designation of the type.

4.1.5. In Article 14 (adapted from Article 8 of Directive 89/530/EEC), the references to plant health in paragraphs a) and c) are new additions to the reference to human and animal health which were already in the former text.

4.1.6. Article 15 (adapted from Article 9 of Directive 80/876/EEC) contains the following new passages: 'or health of humans or of animals or a risk to the environment' in paragraph 1; and 'if appropriate, shall without undue delay consult the relevant technical or scientific committee of the Commission. The Commission shall inform the Member States about the conclusions of the said committee' in paragraph 2. To date, the safeguard clause now set out in Article 15 was only included in Directive 80/876/EEC on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilisers of high nitrogen content. This will henceforth apply to all Community legislation on fertilisers.

4.1.7. Article 16 is new.

4.1.8. In Article 17 (adapted from Articles 1 and 2 of Directive 89/284/EEC), the references to calcium in paragraphs 1 and 2 are new.

4.1.9. Article 18 (adapted from Article 7 of Directive 89/284/EEC) contains a new reference to calcium.

4.1.10. In paragraph 4 of Article 19 (adapted from Article 6 of Directive 89/284/EEC), the following passage is new: 'the number of decimal places shall be one, except for micro-nutrients where it shall be as specified in sections E.2.2 and E.2.3 of Annex I'.

4.1.11. Article 20 is new.

4.1.12. In paragraph 4 of Article 21 (adapted from Article 6 of Directive 89/284/EEC), the following passage is new: 'the number of decimal places shall be one, except for micro-nutrients, where it shall be as specified in sections E.2.2 and E.2.3 of Annex I'.

4.1.13. Article 22 is new.

4.1.14. In Article 23 (adapted from Article 4 of Directive 89/530/EEC), paragraph 4 is new.

4.1.15. In Articles 25 to 28 (adapted from Articles 1 to 7 of Directive 80/876/EEC), the sphere of application has been extended from straight fertilisers to compound ammonium nitrate fertilisers of high nitrogen content, in response to the new market situation. Under the old legislation, compound fertilisers were not subject to detonation resistance tests, creating a loophole which the Member States wanted to plug for safety reasons.

4.1.16. In paragraph 1 of Article 27 (adapted from Article 7 of Directive 80/876/EEC), the reference to 'on the market within their territories' is new.

4.1.17. In Article 29, the second sentence of paragraph 1 and all of paragraph 4 are new.

4.1.18. Article 30 is new, providing a better framework for analysis and testing. The SLIM group and the Member States felt it necessary to introduce a quality guarantee system for laboratories. Because the Member States' situations are so diverse, transitional measures have also been introduced (see Article 34).

4.1.19. Paragraph 2 of Article 31 is new.

4.1.20. Paragraphs 2 and 3 of Article 32 are new.

4.1.21. Article 33 (adapted from Article 1 of Directive 98/97/EC) contains new references: 'by way of derogation from Article 5' and '31 December 2004'. The derogation for Austria, Finland and Sweden mentioned in Article 33 has been extended until 31 December 2004 to give these Member States enough time to adopt the Community provisions relating to cadmium.

4.1.22. Articles 34 to 37 are new.

4.2. *List of the main changes to the technical annexes*

4.2.1. The content of Annex I has not been changed but the tables in parts B and C are now set out in six rather than nine columns. The content of the first three columns (type designation, data on method of production and on the minimum content of nutrients) is now set out horizontally and, for each type of fertiliser, in a box at the top of the table concerned.

4.2.2. In Annex III-3, Method 1, point 1, the following passage is new: 'The methods of the closed thermal cycles as described in this section are regarded as simulating sufficiently the conditions to be taken into account within the scope of application of title II, chapter IV, however, these methods may not necessarily simulate all conditions arising during transport and storage;'.

4.2.3. Annex V is new.

5. **Conclusions**

The Committee endorses the Commission's proposal which involves replacing the 18 current directives on fertilisers with one single directive.

5.1. This legislative instrument, in which the technical specifications have been moved to the annexes, will make it easier for industrial and importing companies to undertake initiatives, and will be clearer for farmers and consumers in general.

5.2. The Committee highlights the establishment of an 'ad hoc' group to advise the Commission and endorses this.

Brussels, 16 January 2002.

The President
of the Economic and Social Committee
Göke FRERICHS