

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 September 2006

on the conclusion, on behalf of the European Community, of the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade

(2006/730/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 and Article 175(1), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Council Decision 2003/106/EC of 19 December 2002 concerning the approval, on behalf of the European Community, of the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade ⁽²⁾ authorised the President of the Council to designate the person or persons empowered to deposit the instrument of approval on behalf of the Community with the Secretary-General of the United Nations, in accordance with Article 25(1) of that Convention, (hereinafter referred to as 'the Rotterdam Convention') ⁽³⁾. The instrument of approval, together with the Declaration of competence set out in Annex B to that Decision, was lodged with the Depositary on 20 December 2002. The Rotterdam Convention entered into force on 24 February 2004.

- (2) In its judgment of 10 January 2006 in Case C-94/03 (Commission v Council) ⁽⁴⁾, the Court of Justice annulled Decision 2003/106/EC as it was based solely on Article 175(1), in conjunction with Article 300 of the Treaty, ruling that both Articles 133 and 175(1), in conjunction with the relevant provisions of Article 300, were the appropriate legal basis.
- (3) The Court's judgment does not affect the Community's status as Party to the Convention. In accordance with Article 46 of the Vienna Convention on the Law of Treaties, the deposit of a new instrument of ratification is therefore not required. A new Council Decision approving the Rotterdam Convention is however necessary together with an amended Declaration of competence to reflect the change in the legal base, in accordance with Article 25(3) of the Rotterdam Convention.
- (4) To ensure legal certainty and to avoid a legal void, it is appropriate for this Decision to take effect from the date at which Decision 2003/106/EC was adopted,

HAS DECIDED AS FOLLOWS:

Article 1

The Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade signed in Rotterdam on 11 September 1998, (hereinafter referred to as 'the Rotterdam Convention'), is hereby approved on behalf of the Community.

⁽¹⁾ Opinion delivered on 5 September 2006 (not yet published in Official Journal).

⁽²⁾ OJ L 63, 6.3.2003, p. 27.

⁽³⁾ OJ L 63, 6.3.2003, p. 29.

⁽⁴⁾ Not yet reported.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Community, the Declaration of competence set out in the Annex to this Decision, in accordance with Article 25(3) of the Rotterdam Convention.

Article 3

This Decision shall take effect from 19 December 2002.

Done at Brussels, 25 September 2006.

For the Council

The President

M. PEKKARINEN

ANNEX

Declaration by the European Community in accordance with Article 25(3) of the Rotterdam Convention

The European Community declares that, in accordance with the Treaty establishing the European Community, and in particular Article 175(1) thereof, it is competent to enter into international agreements, and to implement the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems.

The European Community also declares that, in accordance with Article 133 of the Treaty, it has exclusive competence on common commercial policy, concerning, in particular, trade in goods.

Moreover the European Community declares that it has already adopted legal instruments, including Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals ⁽¹⁾, binding on its Member States, covering matters governed by the Rotterdam Convention, and will submit and update, as appropriate, a list of those legal instruments to the Secretariat of the Rotterdam Convention.

The European Community is responsible for the performance of those obligations resulting from the Rotterdam Convention which are covered by Community law in force.

The exercise of Community competence is, by its nature, subject to continuous development.

⁽¹⁾ OJ L 63, 6.3.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 777/2006 (OJ L 136, 24.5.2006, p. 9).