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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.1.2009
COM(2008) 899 final

2006/0258 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251(2) of the EC Treaty

concerning the

common position of the Council on the adoption of a Regulation of the European Parliament and of the Council concerning statistics on plant protection products

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council 11 December 2006.
(document COM(2006) 778 final — 2006/0258 (COD))

Date of the opinion of the European Economic and Social Committee: 11 July 2007.

Date of the opinion of the European Parliament, first reading: 12 March 2008.

Date of adoption of the common position: 20 November 2008.

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The proposed Regulation creates a legal framework and defines harmonised rules for the collection and dissemination of statistics on the sale and use of plant protection products. In particular, it defines rules for:

- data collection frequency (annually for sales — every 5 years for use);
- data collection methods, with considerable flexibility given to the Member States;
- the format and periodicity of reporting obligations, which can be specified in detail by the Commission through the comitology procedure.

This Regulation concerning statistics on plant protection products is part of a legislative package including the proposal for a Directive of the European Parliament and the Council establishing a framework for Community action to achieve a sustainable use of pesticides (COM(2006) 373 final) and the proposal for a Regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market (COM(2006) 388 final), which are also being examined under the co-decision procedure (AGRI Council).

3. COMMENTS ON THE COMMON POSITION

3.1 General comments

The European Parliament gave its opinion at first reading on 12 March 2008. The

Commission accepted in full, in part or in principle 12 of the 26 amendments adopted by the European Parliament in its first reading. Five of these 12 amendments are already reflected, at least in part, in the common position.

The Commission accepted amendments, either fully or in principle or in part, which would clarify and improve upon the Commission proposal. These include modifications explaining the quality criteria for official statistics and the scope of confidentiality, giving a better description of the objectives of the proposal, and creating a more explicit link with the other legislative proposals for the pesticide thematic strategy, in particular with the new Regulation for the placing of plant protection products on the market, concerning the application of reporting obligations and the revision of the list of products. The Commission expressed a reserved position with regard to the extension of the scope to biocides.

The Commission mainly rejected amendments considered to be either redundant or in conflict with the general provisions of Council Regulation (EC) No 322/97 on Community statistics¹ and the rules of the European Statistical System or to be technically unfeasible, premature or needlessly burdensome from an administrative viewpoint and for respondents.

The Commission considers that the common position does not alter the approach or aims of the proposal and can thus support it as it stands.

3.2. Detailed comments

3.2.1. Parliamentary amendments accepted by the Commission and incorporated in full, in part or in principle in the common position

Amendments **5, 10, 13, 18, and 32** have been incorporated, with a slightly different wording, in the common position. Amendment **5**, fully accepted by the Commission, makes more explicit the objectives of the Regulation and has been fully incorporated in the Council's common position. The link established with the Framework Directive on sustainable use of pesticides by amendment **10**, which clarifies the objectives of the proposal, was maintained by the Council, but strictly limited to Article 14 of the Directive. The three indents of amendment 10, including the last one concerning records of substance flows, which was not acceptable to the Commission, were rejected by the Council. Amendment **13**, fully accepted by the Commission, links the proposal to the proposed Regulation concerning the placing of plant protection products on the market, with a clear reference to the reporting obligations it contains. This amendment was kept almost unchanged in the common position. Amendment **18** referring to the protection of data confidentiality and the limitation of the use of data to statistical purposes was acceptable in principle to the Commission and has been incorporated with slight changes in the common position. Amendment **32** concerning the content of the report from the Commission to the Parliament, which was fully accepted by the Commission, was accepted in essence by the Council.

3.2.2. Parliamentary amendments rejected by the Commission but incorporated in full, in part or in principle in the common position

None.

¹ OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

3.2.3. Parliamentary amendments accepted in full, in part or in principle by the Commission but not incorporated in the common position

Amendments **3, 6, 11, 12, 19, 30, and 33** were accepted in part or in principle by the Commission, but not incorporated. The three amendments **6, 11, and 33** related at least partly to the inclusion of biocidal products in the scope of the proposal and the subsequent renaming of plant protection products as pesticides. The Commission accepted the extension subject to a realistic programme being agreed with Parliament. This extension was not accepted by the Council. Amendments **3 and 30** dealing with standards for official statistics were both rejected by the Council, which introduced instead a new recital (8(a)) and article (3(a)) concerning this issue. Amendment **12**, aiming to reinforce the link with the Regulation concerning the placing on the market of plant protection products, was considered burdensome and rejected by the Council. Amendment **19**, calling for regular revision by the Commission of the list of substances included in Annex III, was not accepted by the Council, which proposed a more flexible approach in a new Article 4(2)(a).

3.2.4. Parliamentary amendments rejected by the Commission and the Council and not incorporated in the common position

Amendments **1, 7, 8, 21, 22, 26, and 34** aimed to extend the scope of the Regulation to the production and import-export sectors, to non-agricultural uses and to biocides. Amendments **14, 16, 25, 28 and 31** were considered by both the Commission and the Council to be in conflict with the rules of the European Statistical System. Amendments **15 and 23** creating specific reporting obligations for producers and those responsible for placing plant protection products on the market were considered to overlap with similar obligations in the Placing on the Market Regulation. These amendments were not included in the common position.

Concerning the extension of the scope of the Regulation to biocidal products as proposed by Parliament, the Commission was aware of the difficulty in covering these products at the time and is of the opinion that a realistic programme for such an extension should be agreed without any precise deadline fixed in the Regulation. The possibility to extend the scope of the Regulation depends very much on the progress of the review programme for biocides, for which no timetable has yet been defined. The Commission fully recognises the importance of biocidal products and has already started a specific assessment of their impact in the thematic strategy on the sustainable use of pesticides. According to the results of this impact assessment, specific measures should be recommended to measure the importance of the use of these products. However, the Commission cannot presume at this stage whether a specific statistical approach will be recommended or if standard reporting measures will suffice. Therefore, the question of biocides should be dissociated from the question of plant protection products.

3.2.5. Changes made by the Council to the Proposal

The Council proposed the following main changes to the Commission proposal:

Quality assessment: The Council has inserted a new Article 3a on quality assessment. Quality assessment dimensions have already been included in other basic acts concerning

statistics². The Commission can support this clarification of the rules for quality assessment.

Implementation measures: The Article introduced by the Council on quality assessment is quite specific. Therefore the reference to the comitology procedure for the quality reports and reporting measures has been deleted. The text on the adoption by the Commission of the definition of the ‘area treated’ has been moved from Annex II to Article 4. The text on the possibility for the Commission to amend the harmonised classification has been moved from Annex III to Article 4, and the solution proposed by the Council is more flexible than the regular revision proposed by the Parliament (amendment 19). The Commission can support this clarification and simplification concerning implementing measures.

Coverage of the collection of data on use: The Council has opted to give a wide margin of discretion to the Member States to select the crops to be covered, and has defined new thresholds for the collection of data on the use of plant protection products in Annex II. The combination of requirements concerning the representativity of the crops cultivated and of the substances used with a link to the national action plans carried out by the Member States under the thematic strategy on the sustainable use of pesticides may offer sufficient guarantees that coverage will be sufficient and will allow good comparisons of the results between Member States. Moreover, in the statement of its reasons, the Council considers that the evaluation of the Regulation results after five years will allow the crop selection to be modified if necessary. The Commission can thus support this compromise.

New definitions: The definitions in Article 2 have been slightly modified and new definitions have been added to ensure more coherence with other related basic acts concerning statistics. The Commission agrees with these changes.

Other changes: In addition, the Council has removed from the recitals all the references to the production and distribution of plant protection products and to a possible extension of the scope to biocides. The recitals on subsidiarity and proportionality as well as on the comitology procedure have been re-drafted and a specific recital on the transmission of data subject to confidentiality has been added. These changes are consistent with the overall position of the Commission with regard to the scope of the Regulation, so the Commission can agree with these changes.

4. CONCLUSION

The changes introduced by the Council’s common position are acceptable to the Commission as they lead to a realistic compromise between, on the one hand, the need for reliable and comparable data to measure progress towards a more sustainable use of pesticides and the reduction of risks and, on the other hand, the difficulty for most of the Member States to introduce a new data collection system and collect sufficiently detailed and comparable data for the needs of this Regulation.

In general, the Council’s changes build upon the Commission’s proposal and therefore the Commission can accept the common position.

² Regulation (EC) No 453/2008 of the European Parliament and of the Council of 23 April 2008 on quarterly statistics on Community job vacancies (OJ L145, 4.6.2008, p. 234).