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COVER NOTE

from:	European Commission
date of receipt:	27 October 2010
to:	General Secretariat of the Council of the European Union
Subject:	Draft Commission Regulation (EU) No .../.. of [...] amending Annex I to Regulation (EC) No 689/2008 of the European Parliament and of the Council concerning the export and import of dangerous chemicals

Delegations will find attached Commission document D009654/03.

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EUROPEAN COMMISSION

Brussels, xxx
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Draft

COMMISSION REGULATION (EU) No .../..

of [...]

**amending Annex I to Regulation (EC) No 689/2008 of the European Parliament and of
the Council concerning the export and import of dangerous chemicals**

Draft

COMMISSION REGULATION (EU) No .../..

of

amending Annex I to Regulation (EC) No 689/2008 of the European Parliament and of the Council concerning the export and import of dangerous chemicals

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 689/2008 of the European Parliament and of the Council of 17 June 2008 concerning the export and import of dangerous chemicals¹, and in particular Article 22(4) thereof,

Whereas:

- (1) Regulation (EC) No 689/2008 implements the Rotterdam Convention on the Prior Informed Consent Procedure (PIC procedure) for Certain Hazardous Chemicals and pesticides in International Trade, hereinafter 'Rotterdam Convention', signed on 11 September 1998 and approved, on behalf of the Community, by Council Decision 2003/106/EC².
- (2) Annex I to Regulation (EC) No 689/2008 should be amended to take into account regulatory action in respect of certain chemicals taken pursuant to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market³, Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market⁴ and 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), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵.
- (3) It was decided not to include the substance chlorate as active substance in Annex I to Directive 91/414/EEC and not to include the substance chlorate as active substance in Annex I, IA or IB to Directive 98/8/EC with the effect that that active

¹ OJ L 204, 31.7.2008, p. 1.
² OJ L 63, 6.3.2003, p. 27.
³ OJ L 230, 19.8.1991, p. 1.
⁴ OJ L 123, 24.4.1998, p. 1.
⁵ OJ L 396, 30.12.2006, p. 1.

substance is banned for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008.

- (4) It was decided not to include the substances benfuracarb, cadusafos, carbofuran and tricyclazole as active substances in Annex I to Directive 91/414/EEC, with the effect that those active substances are banned for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008. The addition of those substances to Part 2 of Annex I was suspended due to the new application for approval under Directive 91/414/EEC submitted pursuant to Article 13 of Commission Regulation (EC) 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I⁶. This new application has been withdrawn by the applicants with the effect that the reason for suspending the addition to Part 2 of Annex I disappeared. Therefore, the substances benfuracarb, cadusafos, carbofuran and tricyclazole should be added to the list of chemicals contained in Part 2 of Annex I to Regulation (EC) No 689/2008.
- (5) It was decided to include the substance methomyl as active substance in Annex I to Directive 91/414/EEC with the effect that that active substance is not any more banned for use in the subcategory "pesticide in the group of plant protection products". Consequently the entry in Part 1 of Annex I to Regulation (EC) No 689/2008 should be amended to reflect that change.
- (6) It was decided to include the substance malathion as active substance in Annex I to Directive 91/414/EEC with the effect that that active substance is not any more banned for use in the subcategory "pesticide in the group of plant protection products" and it was decided not to include the substance malathion as active substance in Annex I, IA or IB to Directive 98/8/EC with the effect that that active substance is banned for use in the subcategory "other pesticide including biocides". Consequently the entry in Part 1 of Annex I to Regulation (EC) No 689/2008 should be amended to reflect those changes.
- (7) A new application pursuant to Article 13 of Regulation (EC) 33/2008 was submitted for the active substance flurprimidol that will require a new decision on inclusion in Annex I to Directive 91/414/EEC and thus the chemical should be deleted from the list of chemicals contained in Part 2 of Annex I to Regulation (EC) No 689/2008. The decision on addition to the list of chemicals in Part 2 of Annex I should not be taken before the new decision on the status of the substance under Directive 91/414/EEC is available.
- (8) The entries in Part 1 and 2 of Annex I to Regulation (EC) No 689/2008 relating to the substance paraquat are not coherent and sufficiently clear as regards code numbers and should thus be amended by inserting the most relevant code numbers.
- (9) Annex I to Regulation (EC) No 689/2008 should therefore be amended accordingly.

⁶ OJ L 15, 18.1.2008, p. 5.

- (10) In order to allow enough time for Member States and industry to take the necessary measures, the application of this Regulation should be deferred.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 689/2008 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ... [OJ: please insert the date: 1st of the month on or following the 40th day after publication]

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
José Manuel BARROSO

ANNEX

Annex I to Regulation (EC) No 689/2008 is amended as follows:

(1) Part 1 is amended as follows:

(a) the following entry is added:

Chemical	CAS No	Einecs No	CN code	Subcategory(*)	Use limitation(**)	Countries for which no notification is required
"Chlorate +	7775-09-9 10137-74-3	231-887-4 233-378-2	2829 11 00 2829 19 00	p(1)	b"	

(b) the entry for paraquat is replaced by the following:

Chemical	CAS No	Einecs No	CN code	Subcategory(*)	Use limitation(**)	Countries for which no notification is required
"Paraquat +	4685-14-7 1910-42-5 2074-50-2	225-141-7 217-615-7 218-196-3	2933 39 99	p(1)	b"	

(c) the entry for malathion is replaced by the following:

Chemical	CAS No	Einecs No	CN code	Subcategory(*)	Use limitation(**)	Countries for which no notification is required
"Malathion	121-75-5	204-497-7	2930 90 99	p(2)	b"	

(d) the entry for methomyl is replaced by the following:

Chemical	CAS No	Einecs No	CN code	Subcategory(*)	Use limitation(**)	Countries for which no notification is required
"Methomyl	16752-77-5	240-815-0	2930 90 99	p(2)	b"	

(2) Part 2 is amended as follows:

(a) the following entries are added:

Chemical	CAS RN	Einecs No	CN code	Category(*)	Use limitation(**)
"Benfuracarb	82560-54-1	n.a.	2932 99 00	p	b
Cadusafos	95465-99-9	n.a.	2930 90 99	p	b
Carbofuran	1563-66-2	216-353-0	2932 99 00	p	b
Chlorate	7775-09-9 10137-74-3	231-887-4 233-378-2	2829 11 00 2829 19 00	p	b
Tricyclazole	41814-78-2	255-559-5	2934 99 90	p	b"

(b) the entry for paraquat is replaced by the following:

Chemical	CAS RN	Einecs No	CN code	Category(*)	Use limitation(**)
"Paraquat	4685-14-7 1910-42-5 2074-50-2	225-141-7 217-615-7 218-196-3	2933 39 99	p	b"

(c) the following entry is deleted:

Chemical	CAS RN	Einecs No	CN code	Category(*)	Use limitation(**)
"Flurprimidol	56425-91-3	n.a.	2933 59 95	p	b"