



Council of the  
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## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	13 February 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 73 final
Subject:	Proposal for a Council Decision establishing the position to be adopted on behalf of the European Union within the Conference of the Parties with regard to amendments of Annex III to the Rotterdam Convention

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Delegations will find attached document COM(2017) 73 final.

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Encl.: COM(2017) 73 final



EUROPEAN  
COMMISSION

Brussels, 13.2.2017  
COM(2017) 73 final

2017/0027 (NLE)

Proposal for a

## **COUNCIL DECISION**

**establishing the position to be adopted on behalf of the European Union within the  
Conference of the Parties with regard to amendments of Annex III to the Rotterdam  
Convention**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

Under the auspices of the Food and Agriculture Organisation (FAO) and the United Nations Environment Programme (UNEP), negotiations for a Convention for the application of the prior informed consent (PIC) procedure for certain hazardous chemicals and pesticides in international trade were concluded in March 1998.

The Convention was opened for signature at a Ministerial Diplomatic Conference held in September 1998 in Rotterdam. It was signed by the Community on 11 September 1998. The Rotterdam Convention represents a major step forward in the international regulation of certain hazardous chemicals, including pesticides. Its objective is to promote shared responsibility and co-operative efforts among the Parties in the international trade of such chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use.

The Union has implemented the Convention through Regulation (EU) No 649/2012 of the European Parliament and of the Council<sup>1</sup>. By its Decision 2006/730/EC of 25 September 2006<sup>2</sup>, the Council decided to approve the Convention on behalf of the European Community.

The Convention entered into force on 24 February 2004. The eighth meeting of the Conference of the Parties (COP8) will take place in Geneva from 24 April to 5 May 2017. In addition to the Union, 27 of its Member States are Parties to the Convention.

On the basis of recommendations from the Chemical Review Committee (CRC), a subsidiary body under the authority of the Conference of the Parties (COP), COP is expected to take decisions on the inclusion of further chemicals in Annex III to the Convention, making them subject to the PIC procedure. Chemicals recommended by the CRC for listing in Annex III were found to meet the criteria of Annex II to the Convention.

The chemicals recommended by the CRC for inclusion in Annex III to the Rotterdam Convention, namely carbofuran, carbosulfan, chrysotile asbestos, short-chain chlorinated paraffins, all tributyltin compounds, trichlorfon, fenthion (ultra low volume (ULV) formulations at or above 640 g active ingredient/L) and liquid formulations (emulsifiable concentrate and soluble concentrate) containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L, are already subject to restrictions on export under Union law, that are similar to those under the Convention. The Commission, therefore, is proposing to the Council a decision to support, on behalf of the Union, the amendments of Annex III to the Convention at COP8.

### **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

The procedural legal basis for the proposed Council Decision is Article 218(9) TFEU, which is the appropriate basis for an act defining the EU position in a "body set up by an

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<sup>1</sup> Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

<sup>2</sup> Council Decision 2006/730/EC 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 (OJ L 299, 28.10.2006, p. 23).

international agreement" (such as the Conference of the Parties to the Rotterdam Convention), when that body is called upon to adopt acts having legal effects.

The substantive legal bases are Article 207 and Article 192 of the TFEU, paragraph 1, given that the measures agreed under the Rotterdam Convention, while pursuing an environmental objective, are to a large extent of a trade-related nature.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

The proposal for a Council Decision establishing the position to be adopted on behalf of the European Union with regard to proposals for amendments of the Rotterdam Convention does not create any new legally binding requirements. All chemicals that are proposed for listing under the Convention are already subject to restrictions on export under Union law that are similar to those under the Convention.

### **4. BUDGETARY IMPLICATIONS**

As a Party, the EU has to provide an annual contribution to the Rotterdam Convention Trust Fund. This contribution will evolve depending on the conclusions of the discussions at the eighth meeting of the Conference of the Parties on the budget for the period 2018-2019. The annual contribution by the EU for 2016 amounted to about 58000 EUR which was covered within existing envelopes.

### **5. OTHER ELEMENTS**

The proposal does not create any new monitoring or reporting requirements. After transposition of the listings adopted under the Convention in Union law, implementation and reporting will be done in accordance with existing arrangements under Regulation (EU) No 649/2012.

Proposal for a

## COUNCIL DECISION

**establishing the position to be adopted on behalf of the European Union within the Conference of the Parties with regard to amendments of Annex III to the Rotterdam Convention**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 192(1) and 207(3), in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Union has approved the Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade (the 'Rotterdam Convention')<sup>3</sup>, which entered into force on 24 February 2004.
- (2) Regulation (EU) No 649/2012 of the European Parliament and of the Council<sup>4</sup> implements the Rotterdam Convention in the Union.
- (3) Pursuant to Article 7 of the Rotterdam Convention, the Conference of the Parties is expected to take decisions on the inclusion of further chemicals in Annex III to the Convention on recommendation from the Chemical Review Committee.
- (4) The Union should determine the position to be taken within the Conference of the Parties with regard to the inclusion of further chemicals in Annex III.
- (5) In order to ensure that importing countries benefit from the protection offered by the Rotterdam Convention, it is necessary to support the recommendation from the Chemical Review Committee as regards the inclusion in Annex III to the Rotterdam Convention of carbofuran, carbosulfan, chrysotile asbestos, short-chain chlorinated paraffins, all tributyltin compounds, trichlorfon, fenthion (ultra low volume (ULV) formulations at or above 640 g active ingredient/L) and liquid formulations (emulsifiable concentrate and soluble concentrate) containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L. Those substances are already banned or severely restricted in the Union and are therefore subject to

<sup>3</sup> Council Decision 2006/730/EC 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 (OJ L 299, 28.10.2006, p. 23).

<sup>4</sup> Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

export requirements which go beyond what is required under the Rotterdam Convention.

- (6) The eighth meeting of the Conference of the Parties to the Rotterdam Convention is expected to take decisions on the proposed amendments to Annex III. The Union should support those amendments.
- (7) The position of the Union within the Conference of the Parties should therefore be based on this Decision,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The position to be adopted on behalf of the European Union at the eighth meeting of the Conference of the Parties to the Rotterdam Convention is that the Union shall support the adoption of the amendments to Annex III to the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade as regards the inclusion of carbofuran, carbosulfan, chrysotile asbestos, short-chain chlorinated paraffins, all tributyltin compounds, trichlorfon, fenthion (ultra low volume (ULV) formulations at or above 640 g active ingredient/L) and liquid formulations (emulsifiable concentrate and soluble concentrate) containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L.

2. Minor changes to this position may be agreed to by the representatives of the Union, in light of the developments at the eighth meeting of the Conference of the Parties to the Rotterdam Convention, without further decision of the Council.

#### *Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council*  
*The President*