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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	29 September 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2015) 6565 final
Subject:	Commission Delegated Regulation (EU) .../... of 29.9.2015 amending Annex I to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

Delegations will find attached document C(2015) 6565 final.

Encl.: C(2015) 6565 final



Brussels, 29.9.2015
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COMMISSION DELEGATED REGULATION (EU) .../...

of 29.9.2015

amending Annex I to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Pursuant to Article 23(1) of Regulation (EU) No 649/2012 concerning the export and import of hazardous chemicals, at least once a year the Commission is required to review, on the basis of developments in Union law and under the Rotterdam Convention, the list of chemicals in Annex I to that Regulation. Since the last review of Annex I a number of regulatory actions in respect of certain chemicals have been taken under Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and Regulation (EC) No 1907/2006 concerning the registration, evaluation, authorisation and restriction of chemicals (REACH). At the fifth and sixth Conference of the Parties to the Rotterdam Convention decisions were taken to include further chemicals in Annex III to the Convention. Those regulatory actions and decisions should be reflected in Annex I.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 1 October 2014, the draft delegated Regulation was consulted with an expert group (the 'PIC DNA meeting'). The group is composed of the relevant stakeholders - representatives of Member States, of the European Chemicals Agency, of the chemicals industry and of the civil society.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act amends the list of chemicals in Annex I on the basis of developments in Union law and under the Convention, as requested by Article 23(1) of Regulation (EU) No 649/2012.

COMMISSION DELEGATED REGULATION (EU) .../...

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amending Annex I to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals¹, and in particular Article 23(4) thereof,

Whereas:

- (1) Regulation (EU) No 649/2012 implements the Rotterdam Convention on the Prior Informed Consent Procedure ("PIC procedure") for certain hazardous chemicals and pesticides in international trade, signed on 11 September 1998 and approved, on behalf of the Community, by Council Decision 2003/106/EC².
- (2) It is appropriate that regulatory action in respect of certain chemicals taken pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council³, Regulation (EC) No 1107/2009 of the European Parliament and of the Council⁴, and Regulation (EC) No 850/2004 of the European Parliament and of the Council⁵ be taken into account.
- (3) The approval of the substance fenbutatin oxide has been withdrawn in accordance with Regulation (EC) No 1107/2009, with the effect that fenbutatin oxide is banned for use

¹ OJ L 201, 27.7.2012, p. 60.

² 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 (OJ L 63, 6.3.2003, p. 27).

³ 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/EC (OJ L 396, 30.12.2006, p. 1).

⁴ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁵ Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

as pesticide and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

- (4) The substances lead compounds, dibutyltin compounds, dioctyltin compounds, trichlorobenzene, pentachloroethane, 1,1,2,2-tetrachloroethane, 1,1,1,2-tetrachloroethane, 1,1,2-trichloroethane and 1,1-dichloroethene are severely restricted as industrial chemical for public use in accordance with Regulation (EC) No 1907/2006 and thus should be added to Part 1 of Annex I to Regulation (EU) No 649/2012.
- (5) Regulation (EC) No 850/2004 was amended in 2012 by the Commission in order to implement the decision taken under the Stockholm Convention to list endosulfan in Part 1 of Annex A to the Stockholm Convention by adding that chemical to Part A of Annex I to Regulation (EC) No 850/2004. Consequently, that chemical has been added to Part 1 of Annex V to Regulation (EU) No 649/2012 and should be removed from Part 1 of Annex I to Regulation (EU) No 649/2012.
- (6) At its sixth meeting held from 28 April to 10 May 2013, the Conference of the Parties to the Rotterdam Convention decided to include commercial pentabromodiphenyl ether, including tetra- and pentabromodiphenyl ether, as well as commercial octabromodiphenyl ether, including hexa- and heptabromodiphenyl ether, in Annex III to that Convention, with the effect that those chemicals became subject to the PIC procedure under that Convention. Those chemicals should thus be added to the list of chemicals contained in Part 3 of Annex I to Regulation (EU) No 649/2012.
- (7) The combined nomenclature code (CN code) is important for determination of the control measures that apply to traded goods. To ease handling of CN codes and identification of the correct control measures that apply to chemicals listed in Annex I to Regulation (EU) No 649/2012, the CN codes that cover more chemicals than those listed in Annex I should be identified by an 'ex' before the CN code.
- (8) Regulation (EU) No 649/2012 should therefore be amended accordingly.
- (9) It is appropriate to grant some time to all interested parties to take the measures necessary to comply with this Regulation and to Member States to take the measures necessary for its implementation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 649/2012 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 40th calendar day after publication, if that day falls on a 1st of a month. If that day falls on another date of a month, the 1st of the following month should be inserted*].

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

Done at Brussels, 29.9.2015

*For the Commission
The President
Jean-Claude JUNCKER*