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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.7.2008
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2006/0132 (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 Directive of the European
Parliament and of the Council establishing a framework for Community action to
achieve a sustainable use of pesticides**

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(Text with EEA relevance)

1 BACKGROUND

Date of transmission of the proposal to the EP and the Council (document COM(2006)373 final – 2006/0132COD):	14 July 2006
Date of the opinion of the European Economic and Social Committee:	14 March 2007
Date of the opinion of the Committee of the Regions:	13 February 2007
Date of the opinion of the European Parliament, first reading:	23 October 2007
Date of adoption of the common position (by unanimity):	19 May 2008

2 OBJECTIVE OF THE COMMISSION PROPOSAL

The aim of the proposal is to fill the current legislative gap regarding the use-phase of pesticides at EU level, and to provide for common minimum rules on the use of pesticides so as to reduce risks to human health and the environment.

This proposal contains a series of measures implementing the main actions proposed in the Thematic Strategy on the sustainable use of pesticides, COM (2006)372 final of 12 July 2006. It is the most important part of a package of legislative and non-legislative actions under the Strategy.

3 COMMENTS ON THE COMMON POSITION

3.1 General comments

The Commission accepted in full, in part or in principle 94 of the 123 amendments adopted by the European Parliament in its first reading. 37 amendments have now been incorporated, either verbatim or in spirit, in the common position.

The Commission accepted the amendments clarifying or improving the text, or introducing appropriate reference to the new rules of comitology. The Commission did not accept the amendments which changed the legal base of the proposal, which were superfluous, lacked clarity or introduced legal uncertainty, which created disproportionate administrative burden, or which were not consistent with the overall objective of the Directive.

The Council has agreed to incorporate the Parliamentary amendments relating in particular to

the new rules of comitology, the addition of the promotion of alternatives in the subject matter of the Directive, the establishment of an internet portal by the Commission, the notion of further training, a maximum interval between inspection of equipment, the specification of the general principles of Integrated Pest Management (IPM) in annex.

The Commission considers that the common position does not alter significantly 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 **17, 52, 62, 103, 137 and 155** have been incorporated in the common position, as they introduce the appropriate reference to the new rules of comitology.

Amendments **6, 43, 49, 60, 61, 63, 68, 85, 93, 95, 106, 112, 114 and 122** have been incorporated in principle in the common position. They added a reference to further training, provided general principles of IPM in a new annex, specified that the implementation of the measures of the Directive had to be described in the National Action Plans, highlighted the importance of monitoring aerial spraying, and provided clarifications.

Parts of amendments **13, 18, 35, 36, 38, 39, 42, 48, 51, 54, 59, 64, 87, 90, 146 and 164** have been incorporated to varying degrees, to provide clarifications or explanations.

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

Amendment **29**, adding a definition of pesticides as plant protection products, was rejected by the Commission as it is not correct and not consistent with the intention of the Commission to consider biocides inclusion at a later stage. It has been incorporated in principle in the common position, as both the European Parliament and the Council agreed on the need to add a definition of "pesticides". However the definition voted by the EP represents only a part of the definition agreed upon in the common position (which defines pesticides as plant protection products and biocidal products).

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

Amendment **1** was rejected by both the Commission and the Council as it changes the legal base of the proposal.

Amendment **5** was rejected as it restricts the exchange of experience to objectives achieved only.

Amendment **16** could lead to confusion as it introduces provisions pertaining to liability whilst there is already a directive on environmental liability. It was therefore rejected by both the Commission and the Council.

Amendments **22 and 99** were found as not acceptable by the Commission and were not incorporated in the common position as they would have introduced legal uncertainty.

Amendments **23, 30 and 37** were rejected by both the Commission and the Council due to lack of clarity.

Amendment **28** was not incorporated in the common position as this new definition is not necessary.

Amendment **32** is not consistent with the Commission proposal (reduction of dependence does not only refer to reduction of use but also to overall reliance on pesticides) and was therefore rejected by both the Commission and the Council.

Amendments **40, 120 and 121** would have created disproportionate administrative burden without clear benefits and were therefore rejected by both the Commission and the Council.

Amendment **55** is unworkable (amateurs would not be able to purchase products, and advice would be systematically needed prior to purchase) and was thus found not acceptable by the Commission and was not incorporated in the common position.

Amendment **57 and 84** are unrealistic (it is difficult to shorten these deadlines) and were rejected by both the Commission and the Council.

Amendment **58** is superfluous and thus was rejected by both the Commission and the Council.

Amendment **69** is incorrect: the problem is whether products cause harm to the aquatic environment and not whether they enter it. It was found as not acceptable by the Commission and was not incorporated in the common position.

Amendment **72** would have duplicated other provisions under this Directive (provisions on training) and under other pieces of legislation (Directive 91/414/EEC). It was therefore rejected by both the Commission and the Council.

Amendment **77** may be unworkable (risk assessments may not always be available) and not consistent with the Commission proposal (precautionary principle applies in point (a)), and was found as not acceptable by the Commission and was not incorporated in the common position.

Amendments **88 and 102** would interfere with the power of decision of the Commission. They were rejected by both the Commission and the Council.

Amendments **91, 96, 98, 104** were found as not acceptable by the Commission as indicators are not needed to evaluate use since use data are relevant for this. They were not incorporated in the common position.

Amendments **138 and 139** are not consistent with the Commission proposal. They were rejected by both the Commission and the Council.

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

Amendments **2, 3, 4, 7, 8, 9, 10, 11, 15, 19, 20, 21, 24, 25, 26, 27, 31, 33, 44, 46, 47, 50, 53, 56, 65, 66, 70, 71, 74, 76, 78, 79, 81, 82, 83, 92, 94, 97, 100, 101, 105, 107, 108, 109, 110, 111, 113, 115, 116, 117, 118, 119, 133, 135, 141, 143, 151 and 153** were accepted in full, in part or in principle by the Commission but were not incorporated in the common position. They clarify or improve the provisions concerned, and relate to quantitative use reduction targets, fiscal measures, background reports to prepare National Action Plans, the prevention of illegal use of products, the information of the general public, the warning of neighbours before any spraying, the establishment of pesticide-free zones around vulnerable areas, and the topics covered by training.

3.2.5 Additional changes made by the Council to the Proposal

In Article 3, the definition of "use" was deleted as this term only appears in the title. The notion of professional capacity or commercial service was incorporated in the definition of "adviser". The definition of "pesticide application accessories" was deleted and merged with that of "pesticide application equipment". The definition of "integrated pest management" was

transferred from the proposal for a Regulation on the placing of plant protection products on the market into this proposal. A definition of "surface water" and "groundwater" referring to the Water Framework Directive was added.

In Article 4, the encouragement of the development and introduction of alternative approaches or techniques such as integrated pest management was added in the objectives of the national action plans as a means to achieve the reduction of the dependency on the use of pesticides.

Article 6 was amended to allow the staff holding a certificate not to be physically present at the place of sale.

Article 8 was reorganised and amended to introduce provisions for the first inspection of new equipment, and to allow total exemptions from inspection for handheld equipment or knapsacks, or use of different timetables and inspection intervals for handheld equipment, knapsacks, non-spraying equipment or spraying equipment used at very low scale (except equipment mounted on aircraft or trains, or boom sprayers larger than 3 meters). An amendment was added to ensure that users carry out regular calibrations and technical checks of their equipment. Provisions regarding mutual recognition between certificates granted in different Member States were incorporated.

Article 9 was reorganised and amended to specify that approval of products must be based on a specific risk assessment, to introduce provisions on the transitional period where certificate systems are not yet in place, and to introduce a requirement for the certification of the enterprise responsible for aerial applications. An amendment was added to introduce the possibility to implicitly approve the requests in case of no reply after a certain time period to be established by competent authorities.

Article 10 was reorganised and amended to give preference to products that do not contain priority hazardous substances, and to render the establishment of appropriately-sized buffer zones not mandatory any more.

Article 11 was amended to introduce provisions regarding recently treated areas used by or accessible to agricultural workers, and to give Member State authorities the possibility to reduce risks instead of prohibiting or reducing the use of pesticides.

Article 12 was amended to widen the provisions not only to users but also to distributors, where applicable, to incorporate a reference to recovery or disposal of remnants and packaging, and to specify that provisions under paragraphs 1 and 3 apply to professional users only.

Article 13 was amended to replace the term low pesticide-input farming by low pesticide-input pest management and to specify that this notion includes IPM and organic farming.

Article 14 was reorganised.

An Article 16a on fees and charges was incorporated in the proposal.

A specific annex has been added for listing the risk indicators.

4- CONCLUSION

A number of changes introduced by the Council help clarify the proposal. Although some amendments weaken the proposal, notably regarding the inspection of application equipment, the handling of request for derogations, the protection of the aquatic environment, the overall text remains acceptable. The Commission therefore accepts the common position adopted on 19 May 2008.