

Narcotic drugs and psychotropic substances: trade in drug precursors, monitoring and surveillance

2002/0217(COD) - 29/09/2003 - Council position

The Council's common position, adopted unanimously, follows the general lines of the Commission's amended proposal. It incorporates certain measures deemed necessary to take account of the direct applicability of the Regulation to operators and Competent Authorities. The Council accepted the only amendment accepted by the Commission which proposes the inclusion of a new recital making explicit the importance of the new instrument in the context of an EU that will comprise, from next year, 25 Member States. Of the three amendments adopted by the Parliament, one has been fully accepted, one has been rejected and the third one has been partially accepted. These are as follows: - this amendment proposes the inclusion of a new recital making explicit the importance of the new instrument in the context of an EU that will comprise, from next year, 25 Member States. It has been accepted; - this amendment would require a yearly updating of the list of non-scheduled substances subject to voluntary monitoring measures by operators. This list is currently reviewed and, if necessary, modified at each meeting of the Committee, which meets four times per year. The proposed amendment therefore entails no improvement to the system. It has been therefore rejected; - the third includes in fact two different ones. The first part would oblige Member States to send an annual report to the Commission on implementing measures, although the Regulation will only be implemented once by each Member State. It has been rejected because it did not improve the Commission's proposal. The second part of the amended has been accepted. It requires the Commission to evaluate the functioning of the Regulation 3 years after its entering into force. In addition to the accepted amendments, the new text includes certain modifications to take account of the direct applicability of the new Regulation. These modifications intend to include in the text of the legal instrument some implementation procedures. They harmonise throughout all Member States the way in which the system is being applied by operators and Competent Authorities. New requirements have been adopted by the Council concerning the placing on the market of scheduled substances: - to provide for the appointment by the operator of a particular person to monitor that trade in scheduled substances is in compliance with the Regulation. This provision enables the competent national authorities to assess whether a particular operator should be granted a licence; - to introduce the requirement for operators to hold a licence before they possess scheduled substances, to facilitate more effective control. In addition, the common position allows the competent authorities to exempt certain categories of public authorities and operators from some of the obligations relating to the renewal of licences and the documentation required for transactions. This exemption is provided for through the issue of a special licence and registration. Exemption rules have been included in order to avoid creating an excessive administrative burden for the competent authorities and certain categories of operators. With regard to the introduction of the exemptions, the Council has added a provision stating that competent authorities should refuse to issue a licence if there are reasonable grounds to consider the applicant unsuitable. A new paragraph has been inserted to empower the competent authorities either to limit the duration of validity of the licence or to seek proof that the conditions for granting the licence are still valid. This insertion allows stricter enforcement of the Regulation. The common position also states that competent authorities, in accordance with national practice in some Member States, should be allowed to request a fee for licence or registration, which shall not exceed the administrative costs incurred. Lastly, a series of new measures have been introduced concerning: - documentation provided by operators who hold special licences or are subject to special registration and the possibility for electronic means of storing documentation; - information required from operators on transactions involving scheduled substances; - powers and obligations of competent authorities; - implementation procedure with a view to providing implementing measures in order to determine the requirements and conditions for the granting of licences; - the obligation for Member States to inform the Commission about the measures they take

with regard to penalties and to performing their control and monitoring duties. The common position also : - adds a title to Annex I; - corrects the CN code and CAS number for Norephedrine; - adds references to stereoisomeric forms of the substances listed in Category 1, wherever possible; - excludes cathine from the substances included in Category 1; and adds technical explanatory notes.