Chemicals: classification, labelling, packaging, adaptation to the REACH Regulation (amend. Directive 67/548/EEC)

2003/0257(COD) - 12/07/2006 - Commission communication on Council's position

The Commission welcomes the adoption of the common position and considers that the principal aims of its REACH proposalare safeguarded in it.

In its assessment of Parliament’s first reading text and of the Council’s common position on REACH, the Commission has taken into account the substantial convergence of the positions of both institutions of the decision making process regarding the main elements.

The Commission considers that a suitable balance has been found on the most difficult and the most critical areas of REACH, namely, registration and authorisation. In the end all Member States and the Commission, supported the final compromise proposal that had been developed, having accepted it as a fair balance between those concerned about the need to provide greater encouragement to the substitution of dangerous substances and those concerned about the impact on competitiveness and investment in Europe. Two of the main elements of the compromise were: i) applications for authorisations should always include an analysis of possible alternatives by the registrant and ii) for substances of very high concern for which it is not possible to determine safe thresholds with current methods, a review of these methods should be foreseen within 12 months after entry into force of the regulation based on work in the REACH implementation projects.

On other important aspects such as scope, the Council has addressed Parliament’s concerns by providing for improved exemptions from registration, and by requiring a review of the annexes governing such exemptions within 12 months of the entry into force of the regulation. On evaluation, the Council has taken a similar line to the Parliament by significantly increasing the role of the Agency. The Commission believes that the Council’s approach to access to information and confidentiality is also consistent with the intentions of Parliament and strikes the right balance.

The net result is that around 90% of the European Parliament’s amendments to REACH that the Commission could accept totally, in part or in principle have been incorporated in the Common Position, using identical or similar wording. In addition, the political agreement includes 43 amendments which the Commission did not state it could accept. In addition 38, including 7 relating to persistent organic pollutants of the amendments where the Commission reserved its position have also been included.

Central to Parliament’s amendments was a compromise package on registration and pre-registration, all aspects of which the Commission said that it could support. Out of 47 amendments constituting this

package, 37 are included in principle, in part or in full in the common position. The Parliament adopted other compromise packages, of which 96 amendments are included in the common position.

Accompanying the political agreement on the common position the Commission and Member States made a number of important declarations. Reflecting the importance of a performing European Chemicals Agency and the need for it to become fully operational before critical REACH procedures come into effect, the Council and the Commission made a joint statement on actions that are necessary for setting up the Agency. In that context also, the Commission takes the opportunity to stress the need for adequate budgetary provision for the increased costs falling on the Agency. The Commission also made statements on special preparations (including alloys), on free movement (Article 127(2) of the Regulation), and on Article 56(f) of the Regulation (in Annex II).

In addition, Denmark and Sweden made two declarations, jointly with Luxembourg on authorisation, and jointly with Germany on Article 2(2) of the Regulation. Poland and Ireland made a joint declaration on authorisation Poland made one on the effect of REACH on competitiveness and Germany made declarations on the income that Member States could derive from fees and on the need for a general discussion on the immunities of European agencies.