

# Dangerous chemicals: export and import, Rotterdam Convention provisions

2002/0026(COD) - 30/11/2006 - Follow-up document

The Commission presents a report on the implementation of Regulation 304/2003/EC concerning the export and import of dangerous chemicals. The report covers the period from 2003 to 2005. It outlines the main provisions of the Regulation and the main tasks performed by the Member States, the Commission and industry, and reviews implementation of the procedures, including actions taken, to improve the efficiency of the Regulation. The report considers implementation problems that have been encountered and possible changes to the Regulation that could further improve its functioning.

The Regulation has been applied for three years. Export notifications handled by Member States totalled 2273. The numbers have increased significantly between 2003 and 2005, from 223 to 1174 per year. About 55-60% concerned substances; the remainder preparations. The number of chemicals involved has doubled from 24 in 2003, to 54 in 2005. The total number of importing countries has also increased from 70 in 2003 to 101 in 2005. Over 80% of the total number of notifications came from five Member States (Germany, UK, Netherlands, France and Spain). 10 Member States (Cyprus, Estonia, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Portugal and Slovakia) did not make any export notifications. The total number of EU export notifications actually sent by the Commission was 1717 (126 in 2003, 680 in 2004 and 911 in 2005.)

During this time the workload for the Designated National Authorities (DNAs) has increased as exporters have become more familiar with the rules and more chemicals have been added to the different procedures. Overall the amount of DNA resources involved is not significant. The administrative burden for exporters and the authorities remains reasonable, although some authorities have encountered problems. The workload will continue to increase, but overall this should not prove unduly burdensome provided that the necessary resources continue to be available at national and EU level.

Overall, the Regulation's procedures have proved effective and functioned well. The main problem has been the delays in obtaining responses to requests for explicit consent. The number of such cases is much higher than could have been anticipated causing additional workload. It has added significantly to the administrative burdens on exporters, DNAs and the Commission. It has also disadvantaged EU exporters vis-à-vis competitors without necessarily adding to the protection of human health and the environment in importing countries. The situation as regards chemicals listed in part 2 of Annex I is particularly problematic.

Although there were initial problems with EDEXIM caused by difficulties in adapting the database to accommodate all the Regulation's requirements in full and meeting user's needs, much progress has been made in addressing these problems. In particular, the planned 'Enterprise' version will simplify and speed up the process.

Co-operation between Member States and the Commission is excellent. Generally the information circulates smoothly between the different parties. However the flow of information with importing countries could be improved.

To date there appear to have been no major problems of non-compliance with the rules.

The importance of enforcement has been emphasised, in particular the role of customs authorities in this regard. Closer collaboration with customs is needed. There is also widespread support for additional tools to help facilitate the work of customs control, particularly as regards exports.

There are also a number of more minor issues where the scope of the rules could be clarified:

- greater clarity is needed in the scope of the rules relating to export notifications (and where applicable explicit consent) in respect of preparations;
- export notifications should include information about the expected quantities of export each year so that the importing country has a clearer overall picture. Making clearer the intended use in export notifications would also be helpful. Often importing countries request further information of these kinds;
- the Regulation's definition of 'exporter' can give rise to some problems in relation to the export notification requirement for goods that are delivered by EC manufacturers or distributors to non-EU based traders who then export the goods. This has been addressed in the detailed notes for guidance for DNAs, but needs to be covered in the Regulation itself so that there is a harmonised approach;
- the procedure for handling export notifications from third countries is not optimal. The majority of these notifications come from the USA. It is hoped that once the US starts sending all the notifications directly to the Commission, the procedure will function more smoothly.

Several Member States commented on the difficulties of obtaining information on imports of Annex I chemicals, linking this to the procedure for export notifications from third countries.