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Report

drawn up on behalf of the Committee on the Environment, Public Health and
Consumer Protection

on the proposals from the Commission of the European Communities to the
Council (Docs. 269/76 and 270/76) for

- a directive concerning the placing of EEC-accepted plant protection products
on the market
- a directive prohibiting the placing on the market and the use of plant
protection products containing certain active substances

Rapporteur: Mr C. NEY

By letter of 17 August 1976 the President of the Council of the European Communities requested the European Parliament pursuant to Article 100 of the EEC Treaty to deliver an opinion on the proposals from the Commission of the European Communities to the Council (Docs. 269/76 and 270/76) for a directive concerning the placing of EEC-accepted plant protection products on the market and for a directive prohibiting the placing on the market and the use of plant protection products containing certain substances.

The President of the European Parliament referred these proposals to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Economic and Monetary Affairs and the Committee on Agriculture for their opinions.

On 27 September 1976 the Committee on the Environment, Public Health and Consumer Protection appointed Mr NEY rapporteur.

It considered these proposals at its meetings of 28/29 October and 24/25 November 1976.

At the latter meeting the committee unanimously adopted the motion for a resolution and the explanatory statement.

Present: Mr Jahn, vice-chairman and acting chairman; Mrs Kruchow, vice-chairman; Mr Ney, rapporteur; Mr Brégégère, Mr Covelli, Mr Didier, Lady Fisher of Rednal, Sir Peter Kirk, Mr W. Müller, Mr Noè, Mr Plebe and Mr Veronesi.

The opinions of the Committee on Economic and Monetary Affairs and the Committee on Agriculture are attached.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposals from the Commission of the European Communities to the Council for a directive concerning the placing of EEC-accepted plant protection products on the market and for a directive prohibiting the placing on the market and the use of plant protection products containing certain active substances.

The European Parliament,

- having regard to the proposals from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 269/76 and Doc. 270/76),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Agriculture (Doc. 455 /76),
1. Welcomes this initiative by the Commission to bring about further harmonization of legislation relating to the use of plant protection products;
 2. Feels that to ensure better protection of the environment, some flexibility is required in harmonizing national provisions relating to the placing on the market of a wide range of plant protection products;
 3. Feels, however, that as consumer safety and protection should be uniformly guaranteed throughout the Community, it can only accept the proposed 'optional' solution as a transitional measure;
 4. Hopes that the Commission will encourage scientific research so that the highly dangerous plant protection products which have not yet been prohibited will be withdrawn from the market and replaced by equivalent, but less toxic products;

¹OJ No. C 212, 9.9.1976, p. 3 and OJ No. C 200, 26.8.1976, p. 10

5. Considers that the Commission should introduce, as a matter of urgency, more far-reaching proposals designed to bring about total harmonization of legal and administrative provisions in the field of plant health in accordance with the objectives laid down in the Programme of Action of the European Communities on the Environment and in the Resolution of the Council of 22 July 1974¹;
6. Approves, with this reservation, the present proposals from the Commission.

¹OJ No. C 92, 6.8.1974, p. 2

EXPLANATORY STATEMENTA. INTRODUCTION

1. The Commission has submitted to the Council a proposal for a directive concerning the placing on the market of EEC-approved plant protection products used to improve the protection of plants and plant products against diseases, insects, and weeds. At the same time it has submitted a second proposal designed to bring about harmonization of national provisions relating to the prohibition of plant protection products containing certain active substances whose use involves risks for man and his environment. This is particularly concerned - at a first stage - with plant protection products containing mercury or organo-chlorine active substances, whose use in modern agriculture is generally considered undesirable and is already prohibited in various Member States.

2. These proposals from the Commission are motivated on the one hand by the differences between existing legal and administrative provisions in the various Member States and, on the other hand, by the resulting unequal protection of users of plant protection products and consumers of plants and plant products.

The present situation is an obstacle to:

- (a) a proper uniform safety policy;
- (b) consumer protection, and
- (c) the free movement of goods,

within the Community.

It is in the light of these criteria that the present proposals, which are closely related and complement the proposal for a Council directive on the approximation of the laws, regulations and administrative provisions of Member States relating to the classification, packaging and labelling of plant protection products, should be examined. However, the Council has not yet been able to take a decision on this proposal.

B. GENERAL CONSIDERATIONS

3. Your committee observes that in the first proposal the Commission proposes to the manufacturer, dealer or possible importer an optional system for the placing on the market of plant protection products, in the form of the envisaged voluntary 'EEC-approval' (i.e. the co-existence of national and Community laws).

In addition, the second proposal (see Art. 4) grants Member States, by way of derogation, the right to allow the sale or use for specific purposes of normally prohibited plant protection products; this right is in fact limited, although in the case of some products it extends for a period which has yet to be determined.

For this reason and since a large number of nationally accepted plant protection products are only intended for regional use, the Commission considers that preference should be given to optional harmonization.

4. Your committee appreciates the force of these arguments, but is, nevertheless, of the opinion that one cannot ignore the disadvantages of choosing optional harmonization:

- (a) a common policy for consumer safety to be applied throughout the Community is thus relegated to the long term;
- (b) the transparency of the market - contrary to what is required for consumer protection - is reduced, since the fact that there are various products to choose from, which might or might not be equivalent, have different types of labelling and come under a national or a European type of approval, will, without comprehensive information for the consumer, prove to be rather confusing;
- (c) the continuing existence of different legal provisions places large producers in a position to sidestep the most stringent national or European legal provisions;
- (d) there is little Community incentive for anyone wishing to market plant protection products to contribute to the harmonization of legal provisions if it is considered to be completely optional.

5. In the opinion of the Committee on Agriculture (as in that of the Committee on Economic and Monetary Affairs) reference is made to the abovementioned disadvantages. Although the Committee on Agriculture considers that, in the present circumstances, the Commission's proposals constitute the only realistic solution acceptable to all Member States and adopts a wait-and-see attitude on the extent to which this system will set in motion a certain harmonization process, your committee, nevertheless, expresses some reservation. For products which may influence health, Parliament has always advocated total harmonization.

CONCLUSION

6. The present proposals must be seen in the context of actions in favour of a Community environment policy. The proposal to achieve an 'EEC-approval' for plant protection products is in accordance with the Council Resolution of 22 July 1974 concerning regulations in the veterinary and plant health field, in which it was explicitly provided for. The proposal for a directive prohibiting certain plant protection products rectifies to a certain extent the first proposal in the direction of a Community policy. Your committee approves these proposals with the above reservation and recommends the Commission to submit in the near future more far-reaching proposals for harmonization in the field of plant health.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Draftsman: Mr P.B. COUSTE

On 24 September 1976 the Committee on Economic and Monetary Affairs appointed Mr COUSTE draftsman.

It considered the draft opinion at its meeting of 22 November 1976 and adopted it unanimously.

Present: Mr NOTENBOOM, chairman; Sir Brandon RHYS WILLIAMS, vice-chairman; Mr COUSTE, draftsman; Mr CLERFAYT, Mr DESCHAMPS, Mr DYKES, Mr LANGE, Lord MURRAY of Gravesend (deputizing for Mr THORNLEY), Mr NYBORG, Mr RIPAMONTI, Mr SCHWÖRER, Mr SPRINGORUM (deputizing for Mr BURGBACHER), Mr STARKE and Mr SUCK.

1. The Commission proposal for a directive on the placing of EEC-accepted plant protection products on the market provides for EEC acceptance of such products entitling them to be placed freely on the market throughout the Community. The free movement of goods is thereby fostered, an objective which the Committee on Economic and Monetary Affairs has always pursued.

2. The Member States, however, remain free to regulate, within their territory, the sale and use of plant protection products other than those which are EEC-accepted. Apart from the EEC-accepted plant protection products, the national legislation in the separate Member States relating to acceptance of plant protection products remains in force. The Commission confines itself to proposing optional harmonization, despite the effects of plant protection products on public health. Parliament has always advocated total harmonization for products which affect public health. The argument the Commission advances for not going further than optional harmonization is that a large number of nationally accepted plant protection products are only intended for local or regional marketing to meet local or regional agricultural and ecological conditions and needs, which can vary significantly over a geographical area as large as the Community. Thus, under these circumstances, the Commission feels that total harmonization covering all the plant protection products needed to cater for various local or regional agricultural and ecological conditions and needs is not appropriate. The Commission, therefore, has restricted its proposal to optional harmonization, which offers the necessary flexibility for the placing on the market and use of products with exclusively regional application.

3. The Committee on Economic and Monetary Affairs appreciates the reasons put forward by the Commission. It also wishes, however, to point out the disadvantages attendant on optional harmonization in this case. The difference between national legislations cannot be explained by special local circumstances alone. In different national legislations the norms are more or less stringent. A less stringent national legislation results in less effective health protection in the Member State concerned. This is a matter which should be investigated by the committee responsible. However, less stringent norms can be accompanied by lower costs for plant protection products which only meet the possibly less stringent requirements of the national legislation as compared with the EEC-accepted plant protection product; this puts the latter at a competitive disadvantage.

Stricter national legislation may, on occasion, be inspired less by concern for health protection or differences in local circumstances than with keeping the market closed to certain foreign products in order to reserve it for national products. In this case, more stringent provisions constitute an obstacle to trade.

4. The Commission, however, although it restricts its proposal to optional harmonization, is well aware of the latter's shortcomings. To avoid some of these disadvantages, the Commission has submitted a complementary proposal for a directive prohibiting the placing on the market of plant protection products containing certain active substances. In cases where national legislation is not stringent enough, this prevents the absence of specific prohibition provisions from endangering human and animal health and the environment. The proposal for a directive partly answers the objections raised under the previous point in the case of inadequate national legislation, but does not remove all possible distortions due to the lack of specific prohibitions since it only deals with some active substances. It only represents a first phase. In the light of the above remarks, further harmonization of prohibition provisions as a complement to the proposal for a directive under consideration is urgently required.

5. However, the alternative to total harmonization adopted by the Commission, namely a complementary directive prohibiting the placing on the market and use of plant protection products containing certain active substances, provides no solution to the problem of the obstacles to trade which may result from over-stringent national legislation.

6. In any case, the proposal for a directive under discussion and the proposal for a directive prohibiting the placing on the market and use of plant protection products containing certain active substances should come into force simultaneously, in view of their above-mentioned complementary nature.

OPINION IN THE FORM OF A LETTER

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Letter from Mr Pierre-Bernard COUSTE, draftsman for the Committee on Economic and Monetary Affairs, to the chairman of the Committee on the Environment, Public Health and Consumer Protection

Dear Mr Chairman,

At its meeting of 22 November 1976, the Committee on Economic and Monetary Affairs discussed the proposal for a directive prohibiting the placing on the market and the use of plant protection products containing certain active substances (Doc. 270/76).

This proposal for a directive represents a necessary complement to the proposal for a directive concerning the placing of EEC-accepted plant protection products on the market (Doc. 269/76). The relationship between the two proposals and the need for both to be implemented simultaneously were already pointed out in the opinion on the first proposal for a directive (See previous opinion).

The present proposal concerns the introduction throughout the Community of a prohibition on the marketing and use of plant protection products containing certain active substances. Besides protecting human and animal health and the environment, this directive will eliminate any distortion of competition and barriers to trade resulting from the existence of divergent national legislations. Considered in this light the proposal meets with the approval of the Committee on Economic and Monetary Affairs. In a first

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stage, however, the proposal covers only plant protection products containing certain mercury or organo-chlorine active substances, which means that national prohibitions governing all other active substances will continue to differ and that consequently not all barriers to trade and distortion of competition resulting from divergent prohibitions will be eliminated. Total harmonization of the prohibitions governing the marketing and use of plant protection products must be the ultimate goal. The Committee on Economic and Monetary Affairs therefore urges the Commission to intensify its efforts in this direction and to submit as soon as possible further proposals for the introduction of Community prohibitions in respect of plant protection products containing other active substances than those covered by the present proposal whose use in agriculture is considered undesirable.

Kindly consider this letter as the unanimously ¹ adopted opinion on the Commission proposal to the Council for a directive prohibiting the placing on the market and the use of plant protection products containing certain active substances (Doc. 270/76).

Yours sincerely,

(sgd) P.B. COUSTE
draftsman of the opinion

¹ Present: Mr Notenboom, acting chairman; Sir Brandon Rhys Williams, vice-chairman; Mr Cousté, draftsman; Mr Clerfayt, Mr Deschamps, Mr Dykes, Mr Lange, Lord Murray of Gravesend (deputizing for Mr Thornley), Mr Nyborg, Mr Ripamonti, Mr Schwörer, Mr Springorum (deputizing for Mr Burgbacher), Mr Starke and Mr Suck.

OPINION OF THE COMMITTEE ON AGRICULTURE

Letter from Mr A. LIOGIER, acting chairman of the Committee on Agriculture to Mr Hans-Edgar JAHN, acting chairman of the Committee on the Environment, Public Health and Consumer Protection

Brussels, 25 October 1976

Dear Mr Chairman,

At its meeting of 21/22 October 1976, the Committee on Agriculture considered the proposals from the Commission of the European Communities for two directives concerning plant protection products (Doc. 269/76 and 270/76)¹.

The first directive on the placing on the market of these products aims at regulating and harmonizing national provisions so as to permit the free movement of these products; this is hindered at present by the variations in these provisions. According to the proposal, a manufacturer wishing to place his plant protection products on the market in the Community will have two alternative solutions: he may either request - as hitherto - approval in one or more Member States on the basis of the current national legal provisions, or else choose the 'EEC-approval' granted by each Member State for products which fulfil a number of requirements as to their safety and effectiveness. From 31 December of the year following that in which approval for the product in question was granted, such a product would then be subject to no restrictions on its free movement in any Member State.

The second proposal aims at harmonizing national regulations on the prohibition of or limitation on the use of plant protection products which are dangerous to humans, animals or the environment, to prevent such products being freely approved and used in one Member State but prohibited in another. As a first stage, regulations have been drawn up for products containing mercury or organo-chlorine active substances which are already prohibited in some Member States. In certain exceptional cases, derogations are provided for, although in the case of some products these extend only until 31 December 1979.

The Committee on Agriculture has no special comments to make on these two proposals which it approves. The question arises, however, whether their effectiveness in terms of the genuine harmonization of national provisions will not be limited in so far as the 'optional solution, which the Commission has chosen allows the manufacturer to opt either for approval in the individual Member State on the basis of national provisions or for Community approval. It is impossible to foresee at present how much use will be made of the latter alternative, the only one which will lead to harmonization within the Community. Among the relevant factors here are:

(1) the possibly excessive time-lag before the Community approval is valid in all States as a permit for unimpeded movement (31 December of the following year); (2) the relative stringency with which the competent authorities check

¹Present: Mr LIOGIER, vice-chairman and acting chairman; Mr AIGNER (deputizing for Mr LÜCKER), Mr BREGEGERE, Mr DESCHAMPS (deputizing for Mr CARO), Mr FRÜH, Mr HAASE, Mr KOFOED, Mr de KONING, Mr LIGIOS, Mr MARTENS, Mr PISONI, Mr PUCCI, Lord St. OSWALD, Mr SUCK and Lord WALSTON.

compliance with Community standards before issuing the EEC-approval;
(3) possible increased costs to industry, etc.

Be that as it may, the solution proposed by the Commission appears to be the only realistic one in the present circumstances, since it is probably the only one which will be accepted by all Member States. Moreover, it should be borne in mind that there are objective differences arising from climatic and geographical considerations, such as the nature of the soil, the kind of crops grown, the presence or absence of plant parasites and diseases. All these are elements which can result in a varying use of the products in question and consequently a greater or lesser tolerance of them in the Member States.

Yours sincerely,

(sgd) A. LIOGIER
(acting chairman)