COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0078 (ACC)

Proposal for a

COUNCIL REGULATION

laying down rules for the monitoring of trade in certain substances used for the illicit manufacture of narcotic drugs and psychotropic substances

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

On 13 December 1990 the Council adopted Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances. This act implemented Article 12 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988 concerning trade in drug precursors which are chemical substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances.

Within its sphere of competence, the Community participated in the negotiation and concluded the Convention through Council Decision 90/611/EEC.

Article 12 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances requires a system to monitor international trade in drug precursors. The aim of this system is to ensure that the chemicals required to manufacture narcotic drugs and psychotropic substances are denied to those who illegally perform these operations.

Taking account of their multiple licit uses and that in principle their trade is lawful, access to these substances cannot generally be denied but measures need to be taken that strike an appropriate balance between the desire to exploit all possible means to prevent drug precursors reaching illicit drug manufacturers and the commercial needs of the chemical industry.

Regulation (EEC) No 3677/90 therefore lays down rules to monitor trade of drug precursors between the Community and third countries and has established a system of reporting suspicious transactions. This system, which is based on close co-operation with operators, is reinforced through measures, such as documentation and labelling, licensing and registration of operators, procedures and requirements governing exports.

The legislative scheme having being adopted more than a decade ago, it seemed appropriate to evaluate the Community monitoring system of trade in precursors with a view to drawing conclusions from the implementation of the existing Community legislation in this field and in order to be able to effectively counter new patterns and trends of precursor diversion and illicit traffic in narcotic drugs and psychotropic substances.

2. OBJECTIVE OF THIS PROPOSAL

Following the European Union Action plan on Drugs 2000 – 2004, endorsed by the European Council at Feira in June 2000, the Commission organised an assessment of the Community monitoring system of trade in drug precursors conducted in close co-operation with the Community Member States.

According to this assessment, it is necessary to further strengthen mechanisms and procedures to monitor trade between the Community and third countries in drug precursors and to adapt the existing control system to new trends and patterns of diverting drug precursors. In particular, it was found necessary to extend monitoring requirements with regard to operators based within the Community facilitating trade between third countries, to introduce a Community approach with regard to procedures for granting licences and to strengthen monitoring requirements governing suspensive customs procedures. Procedures and requirements for exports should be further intensified to target and concentrate controls on the most sensitive consignments mainly depending on the sensitivity of the precursor and the third country of the trading partner.

The primary aim of this proposal concerns the need to further strengthen the import control for the main synthetic drug precursors in order to address the heightened concern relating to amphetamine type stimulants (ATS). It is necessary to introduce requirements and procedures for individual import authorisations to allow the monitoring of individual consignments towards the Community and thereby further intensifying the Community's efforts to prevent synthetic drug precursors, in principle not produced in the Community, reaching illegal manufacturers and traffickers of synthetic drugs.

In order to allow operators to fulfil these requirements, provisions governing external trade in drug precursors should, to the extent possible, be aligned with the provisions governing intra-Community trade of drug precursors in accordance with Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004.

Regulation (EEC) No 3677/90 should therefore be amended accordingly and replaced for the sake of clarity.

3. MAIN ARTICLES

Article 1:

Article 1 indicates the subject matter of the Regulation and clarifies its scope.

Article 2:

Article 2 lays down definitions. The definitions relating to trade between the Community and third countries have been redrafted for the sake of completeness and clarity in order to ensure harmonised application throughout the Community. A provision on drop shipments, namely activities carried out by operators based within the Community facilitating trade between third countries has been inserted in order to allow monitoring requirements linked to these activities.

Articles 3 to 6:

Articles 3 to 6 relate to documentation, record keeping and labelling requirements.

The provisions on documentation have been modified in order to allow control authorities to facilitate the identification of trade in precursors and subsequently target their control. Account has been taken of natural products. Exemptions from the record keeping requirement should be allowed if the competent authorities deem the documentation to be sufficient.

Articles 7 to 9:

Articles 7 to 9 relate to licensing, registration and other requirements.

Intermediary activities including 'drop shipments' are now covered by licensing and registration requirements. It is also proposed that operators dealing with customs warehouses are no longer exempted from licensing and registration. Standard licensing conditions and procedures should be set up to reach a level playing field throughout the Community.

In order to better ensure the monitoring of cases where licences or registration are not required, it is proposed that the operator furnishes a proof of legitimacy of the country of export. Such proof will facilitate the competent authorities to verify whether the exporting country has authorised the export consignment without creating unnecessary additional administrative burden. At the same time, this will allow the Community to fulfil its international obligation to set up a monitoring system to control international trade in precursors.

Article 12:

Article 12 concerns pre-export notifications.

The proposed Article clarifies the current practice of sending pre-export notifications involving Category 2 and Category 3 substances, namely in the case of agreements and in cases of sensitive consignments.

The internationally agreed principle of pre-export notifications is fully recognised.

However, the additional administrative burden of sending pre-export notifications should be accepted only where such instrument is used in a meaningful way, namely allowing the competent authorities to assess whether an export authorisation can be granted. Hence, the absence of a reply from the authorities in the country of destination should not automatically lead to the granting of an export authorisation, but the quality of the follow-up required from the authorities in the country of destination should depend on the degree of sensitivity attached to the consignment. Consequently, it is proposed to have a more nuanced approach in accordance with the guidance given by the International Narcotics Control Board (INCB) in this matter.

Articles 13 to 21:

These Articles concern export authorisations.

It is proposed to discontinue the "open individual export authorisation system" and to generalise the use of individual export authorisations in principle for all Category 1 and Category 2 substances. Such extension adds additional administrative burden on the shoulders of both competent authorities and operators, but would allow the monitoring of individual export consignments and thereby enhance the effectiveness of control.

However, in order to strike an appropriate balance between the administrative procedures and requirements and the desired increased effectiveness of control, resources should be concentrated on the sensitive drug precursors. Therefore, exports of Category 3 substances should only exceptionally be subject to authorisation, namely in cases where pre-export notifications are applied and in cases of sensitive consignments. Moreover, simplified authorisation procedures should be elaborated.

Articles 22 to 27:

These Articles relate to import authorisations.

When the legislation came into force, the Community was a major exporter of precursors and an importer of illicitly manufactured drugs. This is still the situation but unfortunately the Community is now also in the position of an exporter of illicitly manufactured synthetic drugs and an importer of precursors required for that illicit manufacture.

Hence the primary purpose of this Regulation to further strengthen the import controls of the main synthetic drug precursors in order to address this growing problem, in particular as the Community is generally reported to be one of the main leaders of the worlds' ecstasy manufacture and trade.

It is therefore proposed to introduce individual import authorisation requirements and procedures with regard to Category 1 substances. This will allow competent authorities monitor individual consignments entering the customs territory of the Community and to carry out consignment based controls.

Article 34:

Article 34 concerns the communication of information on the implementation of the rules concerning the trade in precursors. This information is necessary to evaluate the effectiveness of these rules and their application and to allow the necessary adjustments to be made. This information is also necessary to draw up an annual report to be submitted to the International Narcotics Control Board in accordance with Article 12 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna on 19 December 1988, hereinafter referred to as the 'United Nations Convention', is part of the world-wide efforts to combat illegal drugs. Within its sphere of competence, the Community participated in the negotiation and concluded the Convention on behalf of the Community through Council Decision 90/611/EEC.[2]

(2) Article 12 of the United Nations Convention concerns trade of substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances hereinafter referred to as 'drug precursors'. As provisions on trade in drug precursors affect Community rules in customs matters, it is appropriate to lay down Community rules on trade between the Community and third countries.

(3) Article 12 of the United Nations Convention requires a system to monitor international trade in drug precursors taking account of the fact that in principle trade in these substances is lawful. Consequently measures have been taken to strike an appropriate balance between the desire to exploit all possible means to prevent drug precursors reaching illicit drugs manufacturers and the commercial needs of the chemical industry and other operators.

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1 OJ C […], […], p. […].

2 OJ L 326, 24.11.1990, p. 56.

(4) To implement the requirements of Article 12 of the United Nations Convention and taking account of the report of the Chemical Action Task Force, Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances[3] has established a system for reporting suspicious transactions. This system, which is based on close co-operation with operators, is reinforced through measures such as documentation and labelling, licensing and registration of operators, procedures and requirements governing exports.

(5) Following the European Union Action Plan on Drugs 2000 – 2004, endorsed by the European Council at Feira in June 2000, the Commission organised an assessment of the Community control system of trade in drug precursors to draw conclusions from the implementation of the Community legislation in this field.

(6) According to that assessment, it is necessary in order to improve the control mechanisms aiming at preventing diversion of drug precursors, to extend monitoring requirements with regard to operators based within the Community facilitating trade between third countries, to introduce a Community approach with regard to procedures for granting licences and to strengthen monitoring requirements governing suspensive customs procedures.

(7) Procedures and requirements for exports should be further intensified to target and concentrate controls on the most sensitive drug precursors, thereby allowing to reduce excessive administrative burden through simplified procedures for exports of high volume substances. While the effectiveness and practicability of pre-export notifications is fully recognised, a strategy should be developed striving to fully exploit the system.

(8) In order to address the heightened concern of production of amphetamine type stimulants, import control mechanisms for the main synthetic drug precursors should be further strengthened through common procedures and requirements allowing individual consignment based controls to be carried out.

(9) In order to allow operators to fulfil these requirements, provisions governing external trade in drug precursors should, to the extent possible, be aligned with the provisions governing intra-Community trade of drug precursors wholly obtained or produced, or released for free circulation in the Community.

(10) Taking account of the requirements of the internal market, and in the interest of this Regulation's effectiveness, uniform application of the provisions should be ensured through adoption of comparable and converging means of action by Member States.

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[3] OJ L 357, 20.12.1990, p. 1. Regulation as last amended by Regulation (EC) No 1232/2002 (OJ L 180, 10.7.2002, p. 5).

(11) Mutual assistance between the Member States and between the Member States and the Commission should be reinforced, in particular by recourse to Council Regulation (EC) No. 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters[4].

(12) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of preventing the diversion of drug precursors for the illicit manufacture of narcotic drugs or psychotropic substances to lay down rules for the thorough monitoring of trade between the Community and third countries of these substances. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the third paragraph of Article 5 of the Treaty.

(13) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999, laying down the procedures for the exercise of implementing powers conferred on the Commission.[5]

(14) Regulation (EEC) No. 3677/90 should therefore be amended accordingly and replaced for the sake of clarity.

HAS ADOPTED THIS REGULATION:

TITLE I

SUBJECT MATTER AND DEFINITIONS

Article 1

This Regulation lays down rules for the monitoring of trade between the Community and third countries in drug precursors for the purpose of preventing the diversion of such substances and applies to the following situations:

a) any entry of scheduled substances having the status as non-Community goods into the customs territory of the Community, including temporary storage, entry into a free zone or free warehouse, the placing under a suspensive procedure and the release for free circulation within the meaning of Council regulation (EEC) No. 2913/92 of 19 October 1992 establishing the Community Customs Code[6];

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4 OJ L 82, 22.3.1997, p. 1. Regulation as last amended by Council Regulation (EC) No. 807/2003 (OJ L 122, 16.5.2003, p. 36).

5 OJ L 184, 17.7.1999, p.23.

6 OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No. 2700/2000 (OJ L 311, 12.12.2000, p. 17).

b) any departure of scheduled substances from the customs territory of the Community, including the departure of scheduled substances that requires a customs declaration and the departure of scheduled substances from a free zone or free warehouse within the meaning of Regulation (EEC) No. 2913/92

Article 2

For the purposes of this Regulation the following definitions shall apply:

(a) «scheduled substance» means any substance listed in the Annex, including mixtures and natural products containing such substances, but excluding medicinal products as defined by Directive 2001/83/EC of the European Parliament and of the Council[7], pharmaceutical preparations, mixtures, natural products and other preparations containing scheduled substances that are compounded in such a way that they cannot be easily used or extracted by readily applicable or economically viable means;

(b) «non-scheduled substance» means any substance which, although not listed in the Annex, is identified as having been used for the illicit manufacture of narcotic drugs or psychotropic substances;

(c) «import» means any entry of scheduled substances having the status as non-Community goods into the customs territory of the Community, including temporary storage, entry into a free zone or free warehouse, the placing under a suspensive procedure and the release for free circulation within the meaning of Regulation (EEC) No. 2913/92;

(d) «export» means any departure of scheduled substances from the customs territory of the Community, including the departure of scheduled substances that requires a customs declaration and the departure of scheduled substances from a free zone or free warehouse within the meaning of Regulation (EEC) No. 2913/92;

(e) «intermediary activities» means any activity involving any financial implication to arrange purchase and sale or supply of scheduled substances carried out by any natural or legal person which aims to obtain agreement between two parties or through acting on behalf of at least one of these parties without taking these substances into its possession or taking control of the carrying out of such transaction; this definition shall also include any activity carried out by any natural or legal person established in the Community involving purchase and sale or supply of scheduled substances without these substances being introduced into the Community customs territory;

(f) «operator» means any natural or legal person engaged in import, export of scheduled substances or intermediary activities relating thereto, including persons pursuing the activity of making customs declarations for clients on a self-employed basis, either as their principal occupation or as a secondary activity related to another occupation;

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7 OJ L 311, 28.11.2001, p. 67.

(g) «ultimate consignee» means any natural or legal person to which the scheduled substances are delivered; this person may be different from the end-user;

(h) «committee procedure» means the procedure provided for in Article 32 (2).

(i) «international Narcotics Control Board» means the Board established by the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol.

CHAPTER II

MONITORING OF TRADE

SECTION 1

DOCUMENTATION, RECORDS AND LABELLING

Article 3

1. All imports, exports or intermediary activities involving scheduled substances shall be documented by the operators by way of customs and commercial documents, such as summary declarations, customs declarations, invoices, cargo manifests, transport and other shipping documents.

Those documents shall contain the following information:

(a) the name of the scheduled substances as stated in the Annex, or in the case of mixtures or natural products their name and the name of any scheduled substance as stated in the Annex contained therein, followed by the word "DRUG PRECURSORS";

(b) the quantity and weight of the scheduled substances and, where a mixture or a natural product is concerned, the quantity, weight, and, if available, the percentage of any scheduled substance contained therein, and

(c) the names and addresses of the exporter, the importer, the ultimate consignee and the person involved in the intermediary activities.

The documentation may be provided via image medium or other data medium, provided that the data, when made readable, match the documentation in appearance and content, are available at all times, can be made readable without delay and can be analysed by automated means.

Article 4

Operators involved in import, export or intermediary activities in respect of scheduled substances shall keep records of those activities.

Such records need not be provided, where the competent authorities deem the documentation to be sufficient.

Article 5

The documentation and records referred to in Articles 3 and 4 respectively shall be kept for a period of three years from the end of the calendar year in which the operation took place, and must be readily available for inspection by the competent authorities upon request.

Article 6

Operators involved in import, export or intermediary activities in respect of scheduled substances shall affix labels indicating the name of the scheduled substances as stated in the Annex, or, where a mixture or natural product is concerned, the name of the mixture or natural product, followed by the word "DRUG PRECURSORS".

SECTION 2

LICENSING AND REGISTRATION OF OPERATORS

Article 7

1. Operators, other than customs agents and transporters when acting solely in that capacity engaged in import, export or intermediary activities involving scheduled substances listed in Category 1 of the Annex shall hold a licence issued by the competent authority of the Member State in which they are established certifying that they qualify for this activity.

   In considering whether to grant a licence, the competent authority shall take into account the competence and integrity of the applicant.

   Provisions determining cases where a licence shall not be required, setting out further conditions for the granting of licences and establishing a model for licences may be laid down in accordance with the committee procedure.

2. The licence may be suspended or revoked by the competent authorities whenever there are reasonable grounds for belief that the holder is no longer a fit and proper person to hold a licence, or that the conditions under which the licence was issued are no longer fulfilled.

Article 8

1. Operators, other than customs agents and transporters when acting solely in that capacity engaged in import, export or intermediary activities involving scheduled substances listed in Category 2 of the Annex, or in the export of scheduled substances listed in Category 3 of the Annex shall register with the competent authorities and shall update with those authorities the addresses of the premises at which they conduct those activities.

   The first subparagraph shall not apply in respect of operators engaged in the export of such small quantities of scheduled substances listed in Category 3 as shall be laid down in accordance with the committee procedure.

2. Provisions determining further cases where registration shall not be required may be laid down in accordance with the committee procedure.

Article 9

When the scheduled substances are entered into the customs territory of the Community, including their temporary storage, entry into a free zone or free warehouse, or their placing under the Community external transit procedure, the licit purposes of export within the meaning of Article 12 of the United Nations Convention must be demonstrated, upon request.

Means to demonstrate such licit purposes shall be determined in accordance with the committee procedure.

SECTION 3

OBLIGATION OF INFORMATION

Article 10

1. Operators shall notify the competent authorities immediately of any circumstances, such as unusual orders and transactions involving scheduled substances, which suggest that such substances intended for import, export or intermediary activities are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

2. Operators shall provide the competent authorities with information in summary form about their export, import or intermediary activities to be determined in accordance with the committee procedure.

Article 11

1. In order to facilitate co-operation between the competent authorities of the Member States, the operators and the chemical industry, in particular as regards non-scheduled substances, the Commission shall in consultation with the Member States draw up and update guidelines.

2. These guidelines shall provide in particular:

   (a) information on how to identify and notify suspect transactions;

   (b) a regularly updated list of non-scheduled substances to enable the industry to monitor on a voluntary basis the trade in such substances.

3. The competent authorities shall ensure that the guidelines are regularly disseminated in accordance with the objectives with these guidelines.

SECTION 4

PRE-EXPORT NOTIFICATION

Article 12

1. Any export of scheduled substances listed in Category 1 of the Annex and exports of scheduled substances listed in Category 2 and 3 of the Annex to certain countries of destination to be determined in accordance with the committee procedure shall be preceded by a pre-export notification sent from the competent authorities in the Community to the competent authorities of the country of destination in accordance with Article 12(10) of the United Nations Convention.

   The country of destination shall be allowed a period of 15 working days to reply, at the end of which the export operation may be authorised by the competent authorities of the Member State of export, if no advice from the competent authorities of the country of destination is received indicating that this export operation might be intended for the illicit manufacture of narcotic drugs or psychotropic substances.

2. The competent authorities of the Member State concerned shall, prior to any export of scheduled substances, supply the information specified in Article 14 (1) to the competent authorities of the country of destination.

   The authority furnishing such information shall require the authority in the third country receiving the information to keep confidential any trade, business, commercial or professional secret or any trade process referred to therein.

SECTION 5

EXPORT AUTHORISATION

Article 13

1. Exports of scheduled substances that require a customs declaration including exports of scheduled substances leaving the customs territory form the Community following their storage in a free zone or free warehouse during a period of at least 10 days shall be subject to an export authorisation.

   However, exports of scheduled substances listed in Category 3 of the Annex shall only be subject to an export authorisation, where pre-export-notifications are required or where these substances are exported to certain countries of destination to be determined in accordance with the committee procedure.

   Where scheduled substances are re-exported within less than 10 days from the date of their placing into a suspensive procedure, an export authorisation need not be required, where the operator can demonstrate the licit purposes of first export and import in the third country.

2. Export authorisations shall be issued by the competent authorities of the Member State where the person by whom or on whose behalf the export declaration is made and who is the person chiefly responsible for the export activities by virtue of his own economic and legal relationship to the scheduled substances and to the consignee (exporter) is established.

Article 14

1. The application for export authorisations referred to in Article 12 shall, at least, contain the following:

   (a) the names and addresses of the exporter, the importer in the third country, any other operator involved in the export operation or shipment, and of the ultimate consignee;

   (b) the name of the scheduled substances as stated in the Annex, or in the case of a mixture or a natural product, their name and 8 digit CN-code and the name of any scheduled substance as stated in the Annex contained therein;

   (c) the quantity and weight of the scheduled substances and, where a mixture or a natural product is concerned, the quantity, weight, and, if available, the percentage of any scheduled substance contained therein, and

   (d) details of the transport arrangements, such as the expected date of dispatch, method of transport, name of the customs office where the customs declaration is to be made and, where available at this stage, identification of the means of transport, itinerary, expected point of exit from Community customs territory and the point of entry into the importing country;

(e) in the cases referred to in Article 19, a copy of the import authorisation issued by the country of destination.

2. A decision on the application for an export authorisation shall be taken within a period of 15 working days from the date on which the competent authority considers the file to be complete.

That period shall be extended if, in the cases referred to in Article 19, the competent authorities are obliged to make further enquiries under the second subparagraph of Article 19.

3. The authorisation may be limited to one substance, only.

Article 15

1. If the details of the itinerary and means of transport were not provided in the application, the export authorisation shall state that the operator must furnish those details to the customs authority or other competent authority at the point of exit from the Community customs territory before the physical departure of the consignment. In such cases the export authorisation shall be annotated accordingly at the time of issue.

Where the export authorisation is presented to a customs office in another Member State than that of the issuing authority, the exporter shall make available any certified translation of parts or all information contained on the authorisation, upon request.

2. The export authorisation shall be presented in support of the customs declaration, when the customs declaration is made at the customs office competent to accept that declaration. The authorisation shall accompany the consignment to the third country of destination.

The customs office at the point of exit from the Community customs territory shall insert the details referred to in Article 13 in the authorisation and affix its stamp thereon.

Article 16

The issue of an export authorisation shall not preclude any possible administrative or other liability of the holder of the authorisation.

Article 17

The export authorisation shall be refused if any of the following conditions are fulfilled:

(a) details supplied are incomplete;

(b) there are reasonable grounds for suspecting that the information supplied is false or incorrect;

(c) in the cases referred to in Article 19, it is established that the import of the scheduled substances has not been authorised by the competent authorities of the country of destination;

(d) there are reasonable grounds for suspecting that the substances in question are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

Article 18

The competent authorities may suspend or revoke an export authorisation whenever there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

Article 19

Whenever, under an agreement between the Community and a third country, exports are not to be authorised unless an import authorisation has been issued by the competent authorities of that third country for the substances in question, the Commission shall communicate to the competent authorities of the Member States the name and address of the competent authority of the third country, together with any operational information obtained from it.

The competent authorities in the Member States shall satisfy themselves of the authenticity of such import authorisation, if necessary by requesting confirmation from the competent authority of the third country.

Article 20

The period of validity within which the goods must have left the Community Customs territory shall not exceed six months from the date of issue of the export authorisation. Under exceptional circumstances, the period of validity may be extended, upon request.

Article 21

Simplified procedures to grant an export authorisation may be applied. Such procedures shall be determined in accordance with the committee procedure.

SECTION 6

IMPORT AUTHORISATION

Article 22

Imports of scheduled substances listed in Category 1 of the Annex that require a licence referred to in Article 7 shall be subject to an import authorisation.

The import authorisation is issued by the competent authorities of the Member State where the person by whom or on whose behalf the customs declaration is made (importer) is established.

Further documented and economically justifiable cases and further conditions where an import authorisation is required may be determined in accordance with the committee procedure.

Article 23

1. The application for the import authorisations referred to in Article 22 shall, at least, contain the following:

   (a) the names and addresses of the importer, the exporter of the third country, any other operator involved and of the ultimate consignee;

   (b) the name of the scheduled substances as stated in the Annex, or in the case of a mixture or a natural product, their name and the 8 digit CN-code and the name of any scheduled substance as stated in the Annex contained therein;

   (c) the quantity and weight of the scheduled substances and, where a mixture or a natural product is concerned, the quantity, weight, and, if available, the percentage of any scheduled substance contained therein, and

   (d) details of the transport arrangements, such as the date and place of the envisaged import activities, methods and, if available, means of transport.

2. A decision on the application for an import authorisation shall be taken within a period of 15 working days from the date on which the competent authority considers the file to be complete.

3. The import authorisation may be limited to one substance.

Article 24

The import authorisation shall accompany the consignment from the point of entry into the Community customs territory to the premises of the importer or ultimate consignee.

The import authorisation shall be presented to the customs office when the scheduled substances are declared for a customs procedure.

Where the import authorisation is presented to a customs office in another Member State than that of the issuing authority, the importer shall make available any certified translation of parts or all information contained on the authorisation, upon request.

Article 25

The import authorisation shall be refused if any of the following conditions are fulfilled:

(a) details supplied are incomplete;

(b) there are reasonable grounds for suspecting that the information supplied in the application is false or incorrect;

(c) there are reasonable grounds for suspecting that the scheduled substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

Article 26

The competent authorities may suspend or revoke the import authorisation whenever there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

Article 27

The period of validity within which the scheduled substances must have been introduced into the customs territory of the Community shall not exceed six months from the date of issue of the import authorisation. Under exceptional circumstances, the period of validity may be extended, upon request.

CHAPTER III

POWERS OF COMPETENT AUTHORITIES

Article 28

1. Without prejudice to the provisions of Articles 12 to 27 and of paragraphs 2 and 3 of this Article, the competent authorities of each Member State shall prohibit the introduction of scheduled substances into the Community customs territory or their departure from it, if there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

2. The competent authorities shall detain or suspend release of the scheduled substances for the time necessary to verify the identification of the scheduled substances or the respect of the rules of this Regulation.

3. In order to ensure the correct application of this Regulation, each Member State shall adopt the measures necessary to enable the competent authorities, in particular:

   (a) to obtain information on any orders for or operations involving scheduled substances;

   (b) to enter operators' business premises in order to obtain evidence of irregularities.

4. For the purpose of preventing specific risks of diversion in free zones as well as in other sensitive areas such as warehouses, Member States shall ensure that effective controls are applied to operations carried out in these areas at every stage of these operations, and that the controls are no less stringent than those applied in the other parts of the customs territory.

5. The competent authorities may require the operators to pay a fee for the issuing of licences, registrations and authorisations. Such fees shall be levied in a non-discriminatory way and shall not exceed the cost of processing the application.

CHAPTER IV

ADMINISTRATIVE COOPERATION

Article 29

For the purposes of applying this Regulation and without prejudice to Article 32, the provisions of Regulation (EC) No 515/97 shall apply mutatis mutandis. Each Member State shall communicate to the other Member States and to the Commission the name of the competent authorities appointed to act as correspondents in accordance with Article 2(2) of that Regulation.

CHAPTER V

IMPLEMENTING MEASURES AND AMENDMENTS

Article 30

In addition to the implementing measures referred to in this Regulation, all other measures necessary for its implementation, in particular with regard to the export and import authorisation forms, and detailed rules for their use, shall be adopted in accordance with the committee procedure.

Article 31

The Annex to this Regulation shall be adapted, in accordance with the committee procedure to take account of any amendments to the Annex to the United Nations Convention.

Article 32

1. The Commission shall be assisted by the Drugs Precursors Committee (hereinafter the Committee).

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

   The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

CHAPTER VI

FINAL PROVISIONS

Article 33

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendment affecting them.

Article 34

The competent authorities in each Member State shall at least each year communicate to the Commission all relevant information on the implementation of the monitoring measures laid down in this Regulation, and on scheduled substances used for the illicit manufacture of narcotic drugs or psychotropic substances and methods of diversion and illicit manufacture, and their licit trade, uses and needs.

On the basis of that information, the Commission shall in consultation with the Member States evaluate the effectiveness of the rules of this Regulation and, in accordance with Article 12 (12) of the United Nations Convention and draw up an annual report to be submitted to the International Narcotics Control Board.

Article 35

The Commission shall, on behalf of the Community, adopt a position regarding amendments of Tables I and II of the Annex to the United Nations Convention.

Article 36

Regulation (EEC) No 3677/90 is repealed with effect from […].

References to the repealed Regulation shall be construed as references to this Regulation.

Article 37

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

It shall apply from 1st July 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States

Done at Brussels, […]

For the Council
The President

ANNEX

Scheduled substances Category 1

Substance	CN designation (if different)	CN Code	CAS No[8]
1-Phenyl-2-propanone	Phenylacetone	2914 31 00	103-79-7
N-acetylanthranilic acid	2-Acetamidobenzoic acid	2924 23 00	89-52-1
Isosafrol (cis + trans)		2932 91 00	120-58-1
3,4-Methylenedioxyphenylpropan-2-one	1-(1,3-Benzodioxol-5-yl)propan-2-one	2932 92 00	4676-39-5
Piperonal		2932 93 00	120-57-0
Safrole		2932 94 00	94-59-7
Ephedrine		2939 41 00	299-42-3
Pseudoephedrine		2939 42 00	90-82-4
Norephedrine		ex 2939 49 00	14838-15-4
Ergometrine		2939 61 00	60-79-7
Ergotamine		2939 62 00	113-15-5
Lysergic acid		2939 63 00	82-58-6
The stereoisomeric forms of the substances listed in this Category not being cathine[9] whenever the existence of such forms is possible.			
The salts of the substances listed in this Category whenever the existence of such salts is possible and not being the salts of cathine.			

[8] The CAS No is the "Chemical Abstracts Service Registry Number", which is a unique numeric identifier specific to each substance and its structure. The CAS No is specific to each isomer and to each salt of each isomer. It must be understood that the CAS Nos for the salts of the substances listed above will be different to those given.

[9] Also named (+)-norpseudoephedrine, CN Code 2939 43 00, CAS No 492-39-7.

Category 2

Substance	CN designation (if different)	CN code[10]	CAS No[11]
Acetic anhydride		2915 24 00	108-24-7
Phenylacetic acid		2916 34 00	103-82-2
Anthranilic acid		2922 43 00	118-92-3
Piperidine		2933 32 00	110-89-4
Potassium permanganate		2841 61 00	7722-64-7
The salts of the substances listed in this Category whenever the existence of such salts is possible.			

Category 3

Substance	CN designation (if different)	CN Code1	CAS No2
Hydrochloric acid	Hydrogen chloride	2806 10 00	7647-01-0
Sulphuric acid		2807 00 10	7664-93-9
Toluene		2902 30 00	108-88-3
Ethyl ether	Diethyl ether	2909 11 00	60-29-7
Acetone		2914 11 00	67-64-1
Methylethylketone	Butanone	2914 12 00	78-93-3
The salts of the substances listed in this Category whenever the existence of such salts is possible and not being the salts of hydrochloric acid and sulphuric acid.			

[10] OJ L 290, 28.10.2002, p. 1.

[11] The CAS No is the "Chemical Abstracts Service Registry Number", which is a unique numeric identifier specific to each substance and its structure. The CAS No is specific to each isomer and to each salt of each isomer. It must be understood that the CAS Nos for the salts of the substances listed above will be different to those given.