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**REPORT**

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from: Working Party on Technical Harmonisation (Fertilizers)  
to: Permanent Representatives Committee (Part I)

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Subject : Preparation of the Competitiveness Council on 30 September 2002  
- Modified proposal for a Regulation of the European Parliament and of the  
Council relating to fertilizers  
- Political agreement

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**I. INTRODUCTION**

On 14 September 2001, the Commission submitted a proposal for a Regulation relating to fertilizers <sup>1</sup>.

The European Parliament adopted its opinion at first reading on 10 April 2002 <sup>2</sup>. Following this Opinion, the Commission presented an amended proposal on 17 June 2002 <sup>3</sup>.

The Social and Economic Committee adopted its Opinion on 16 January 2002 <sup>4</sup>.

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<sup>1</sup> OJ C 51 E, 26.02.2002, p. 1.  
<sup>2</sup> OJ: Not yet published.  
<sup>3</sup> OJ: Not yet published  
<sup>4</sup> OJ C 80, 03.04.2002, p. 6.

## II. OUTSTANDING QUESTIONS

The proposal has been examined at several meetings of the Working Party on Technical Harmonisation (fertilizers), most recently on 22 July 2002<sup>5</sup> when a large degree of consensus was reached on the text set out in the Annex. However, the following reservations (scrutiny or on substance) remain.

### **1. Recital 18 on penalties (footnote n° 21)**

The P, E, S and I delegations have scrutiny reservations on the proposed addition to recital 18, the P delegation indicating that it prefers the original Commission text. Reservation by the UK delegation, requesting that the suggested provision be set out in the corresponding Article (Article 37).

### **2. Article 2 (x) on the definition of the manufacturer (footnote n°22 )**

The I delegation maintains a scrutiny reservation on this definition.

### **3. Articles 33 and 36 (2) - derogation on the content of cadmium (footnotes n° 23 and 24)**

The S and FIN delegations maintain their reservations on the deletion of Article 33 and have entered scrutiny reservations on a compromise suggestion on Article 36 (2) by the Commission representative. FIN and S prefer to retain Article 33 (1) with a stipulation that

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<sup>5</sup> The LUX delegation was not present.

the concerned Member States, Austria, Finland and Sweden, may maintain their derogations until the entry into force of a specific Regulation relating to the cadmium content in fertilizers<sup>6</sup>. However, S has indicated that it could accept a deadline of 31 December 2005.

### **III. OTHER ISSUES**

The Commission requests that the following statement by the Commission be entered into the minutes of the meeting of the Permanent Representatives Committee:

"The Commission will table for discussion in the committee mentioned in Article 32 of the Regulation the subject of measurement uncertainties in the declared nutrient content of the EC fertilizers listed in Annex II of the Regulation. The Commission will also submit draft measures for the traceability of fertilizers under Articles 8 and 26."

Changes in relation to the previous text in doc. 10336/02 are in italics and are underlined. Please note that some changes have been introduced by the General Secretariat for legal and drafting reasons.

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<sup>6</sup> The original proposal for Article 33 (1) was the following:  
"By way of derogation from Article 5, Austria, Finland and Sweden may prohibit the placing on the market on their territory of EC fertilizers containing cadmium at concentrations in excess of those which were fixed nationally at the date of Accession until 31 December 2004."

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**relating to fertilizers**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission<sup>7</sup>,

Having regard to the Opinion of the Economic and Social Committee<sup>8</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>9</sup>,

Whereas:

- (1) Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers<sup>10</sup>, as last amended by Directive 98/97/EC of the European Parliament and the Council<sup>11</sup>, Council Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content<sup>12</sup>, as amended by Directive 97/63/EC of the European Parliament and the Council<sup>13</sup>, Commission Directive 87/94/EEC of 8 December 1986 on the

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<sup>7</sup> OJ C 51 E, 26.02.2002, p. 1.

<sup>8</sup> OJ C 80, 03.04.2002, p. 6.

<sup>9</sup> OJ C

<sup>10</sup> OJ L 24, 30 January 1976, p. 21.

<sup>11</sup> OJ L 18, 23 January 1999, p. 60.

<sup>12</sup> OJ L 250, 23 September 1980, p. 7.

<sup>13</sup> OJ L 335, 6 December 1997, p. 15.

approximation of the laws of the Member States relating to procedures for the control of characteristics of, limits for and resistance to detonation of straight ammonium nitrate fertilizers of high nitrogen content <sup>14</sup>, as amended by Directive 88/126/EEC <sup>15</sup>, and Commission Directive 77/535/EEC of 22 June 1977 on the approximation of the laws of the Member States relating to methods of sampling and analysis for fertilizers <sup>16</sup>, as last amended by Directive 95/8/EC <sup>17</sup>, have been substantially amended several times. In accordance with the communication from the Commission to the Council and the European Parliament "Simpler legislation for the internal market" <sup>18</sup> (SLIM) and the Action Plan for the Single Market <sup>19</sup> those Directives should be repealed and replaced by a single legal instrument, in the interests of clarity.

- (2) The Community legislation on fertilizers is very technical in its content. A Regulation is therefore the more appropriate legal instrument as it imposes directly on manufacturers precise requirements to be applied at the same time and in the same manner throughout the Community.
- (3) In each Member State fertilizers must display certain technical characteristics laid down by mandatory provisions. These provisions, concerning more particularly the composition and definition of fertilizers types, the designations of these types, their identification and their packaging, differ from one Member State to another. By their disparity they hinder trade within the Community. They should therefore be harmonised.

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<sup>14</sup> OJ L 38, 7 February 1987, p. 1.  
<sup>15</sup> OJ L 63, 9 March 1988, p. 12.  
<sup>16</sup> OJ L 213, 22 August 1977, p. 1.  
<sup>17</sup> OJ L 86, 20 April 1995, p. 41.  
<sup>18</sup> COM(96) 204 final.  
<sup>19</sup> CSE(97) 1 final.

- (4) Since the objectives of the proposed action namely to ensure the internal market in fertilizers, cannot be sufficiently achieved by the Member States if there are no common technical criteria and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is necessary in order to achieve those objectives.
- (5) It is necessary to determine at Community level the designation, definition and composition of EC fertilizers.
- (6) Community rules on the identification, *traceability* and labelling of these fertilizers, and on the closure of the packages should also be laid down.
- (7) A procedure should be established at Community level to be followed in cases where a Member State deems it necessary to restrict the placing on the market of EC fertilizers.
- (8) The production of fertilizers is subject to varying degrees of fluctuation due to manufacturing techniques or basic materials. Sampling and analytical procedures may also contain variations. It is therefore necessary to authorise tolerances on the declared nutrient contents. In the interest of the agricultural user, it is advisable to keep these tolerances within narrow limits.
- (9) Official controls on the compliance of EC fertilizers with requirements of this Regulation concerning quality and composition should be carried out by [...] laboratories *that are approved by the Member States and notified to the Commission.*

- (10) Ammonium nitrate is the essential ingredient of a variety of products, some of which are intended for use as fertilizers and others as explosives. It is necessary, having regard to the particular nature of ammonium nitrate fertilizers of high nitrogen content and to the requirements it entails regarding public safety, health and protection of workers, to lay down additional Community rules for EC fertilizers of this type.
- (11) Certain of those products could be hazardous and could in certain instances be used for purposes other than those for which they were intended. This could well endanger the security of persons and property. Manufacturers should therefore be obliged to take appropriate steps to avoid such use, and in particular to ensure the traceability of such fertilizers.
- (12) In the interest of public safety, it is particularly important to determine at Community level the characteristics and properties distinguishing ammonium nitrate EC fertilizers of high nitrogen content from varieties of ammonium nitrate used in the manufacture of products used as explosives.
- (13) Ammonium nitrate EC fertilizers of high nitrogen content should conform to certain characteristics to ensure that they are harmless. Manufacturers should ensure that *all* high nitrogen content ammonium nitrate fertilizers have passed a test of resistance to detonation before those fertilizers are placed on the market.
- (14) It is necessary to establish rules on the methods of the closed thermal cycles even if these methods may not necessarily simulate all conditions arising during transport and storage.
- (15) Fertilizers can be contaminated by substances that can potentially pose a risk to human and animal health and the environment. Further to the opinion of the Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE), the Commission intends to address the issue of unintentional cadmium content in mineral fertilizers and will, where appropriate,

draw up a proposal for a Regulation, which it intends to present to the European Parliament and the Council. Where appropriate, a similar review will be undertaken for other contaminants.

- (16) It is appropriate to establish a procedure, to be observed by any manufacturer or his representative wanting to include a new type of fertilizer into Annex I in order to use the marking "EC FERTILIZER".
- (17) The measures necessary for the implementation of this Regulation will 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<sup>20</sup>.
- (18) Member States should lay down penalties in respect of infringements to the provisions of this Regulation. They may foresee that a manufacturer who infringes Article 27 can be fined an amount equivalent to ten times the market value of the shipment that fails to comply.<sup>21</sup>
- (19) Directives 76/116/EEC, 77/535/EEC, 80/876/EEC and 87/94/EEC should be repealed,

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<sup>20</sup> OJ L 184, 17.7.1999, p. 23.

<sup>21</sup> Scrutiny reservations by the P, E, S and I delegations. Reservation by the UK delegation, requesting that the suggested provision be set out in the corresponding Article (Article 37).



HAVE ADOPTED THIS REGULATION:

TITLE I  
**GENERAL PROVISIONS**

CHAPTER I  
**SCOPE AND DEFINITIONS**

Article 1  
**Scope**

This Regulation shall apply to products which are placed on the market as fertilizers designated "EC fertilizer".

Article 2  
**Definitions**

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

- (a) *Fertilizer* means material, the main function of which is to provide nutrients for plants.
- (b) *Primary nutrient* means the elements nitrogen, phosphorus and potassium only.
- (c) *Secondary nutrient* means the elements calcium, magnesium, sodium and sulphur.
- (d) *Micro-nutrients* means the elements boron, cobalt, copper, iron, manganese, molybdenum and zinc, essential for plant growth in quantities small compared to those of primary and secondary nutrients.
- (e) *Inorganic fertilizer* means a fertilizer in which the declared nutrients are in the form of minerals obtained by extraction or by physical and/or chemical industrial processes. Calcium cyanamide, urea and its condensation and association products, and fertilizers containing chelated or complexed micro-nutrients may, by convention, be classed as inorganic fertilizers.

- (f) *Chelated micro-nutrient* means a micro-nutrient that is held by one of the organic molecules listed in section E.3.1 of Annex I.
- (g) *Complexed micro-nutrient* means a micro-nutrient that is held by one of the molecules listed in section E.3.2 of Annex I.
- (h) *Type of fertilizers* means fertilizers with a common type designation as indicated in Annex I.
- (i) *Straight fertilizer* means a nitrogenous, phosphatic or potassic fertilizer having a declarable content of only one of the primary nutrients.
- (j) *Compound fertilizer* means a fertilizer having a declarable content of at least two of the primary nutrients and obtained chemically or by blending or by a combination of both.
- (k) *Complex fertilizer* means a compound fertilizer, obtained by chemical reaction, by solution, or in its solid state by granulation, having a declarable content of at least two of the primary nutrients. In its solid state each granule contains all the nutrients in their declared composition.
- (l) *Blended fertilizer* means a fertilizer obtained by dry mixing of several fertilizers, with no chemical reaction.
- (m) *Foliar fertilizer* means a fertilizer suitable for application to and nutrient uptake by the foliage of a crop.
- (n) *Fluid fertilizer* means fertilizers in suspension or solution.
- (o) *Solution fertilizer* means a fluid fertilizer that is free of solid particles.
- (p) *Suspension fertilizer* means a two-phase fertilizer in which solid particles are maintained in suspension in the liquid phase.

- (q) *Declaration* means a statement of the amount of nutrients, including their forms and solubility, guaranteed within specified tolerances.
- (r) *Declarable content* means the content of an element, or its oxide, which according to Community legislation, may or shall be given on a label of an EC fertilizer or on the relevant accompanying document.
- (s) *Tolerance* means the permitted deviation of the measured value of a nutrient content from its declared value.
- (t) *European Standard* means CEN (European Committee for Standardisation) standards, which have been officially recognised by the Community and whose reference has been published in the *Official Journal of the European Communities*
- (u) *Package* means a sealable receptacle used to hold, protect, handle, and distribute fertilizers and holding not more than 1 000 kg.
- (v) *Bulk* means a fertilizer not packaged as prescribed by this Regulation.
- (w) *Placing on the market* means the supply of fertilizer, whether in return for payment or free of charge, or storage for the purpose of supply. Importation of a fertilizer into the customs territory of the European Community shall be deemed to constitute placing on the market.
- (x) *Manufacturer* means the natural or legal person responsible for placing a fertilizer on the market [...]; *in particular a* producer, an importer, a packager working for his own account, or any person changing the characteristics of a fertilizer, shall be deemed to be a manufacturer. [...] *However, a* distributor who does not change the characteristics of the fertilizer shall not be deemed to be a manufacturer.<sup>22</sup>

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<sup>22</sup> Scrutiny reservation by the I delegation.

## CHAPTER II

### *PLACING ON THE MARKET*

#### Article 3

#### **EC Fertiliser**

A fertilizer belonging to a type of fertilizers listed in Annex I and which complies with the conditions laid down in this Regulation, may be designated "EC fertilizer".

The designation "EC fertilizer" shall not be used for a fertilizer which does not comply with this Regulation.

#### Article 4

#### **Establishment within the Community**

The manufacturer shall be established within the Community and shall be responsible for the conformity of the "EC fertilizer" with the provisions of this Regulation.

#### Article 5

#### **Free Circulation**

1. Without prejudice to the provisions of Article 15 and of other Community legislation, Member States shall not, on grounds of composition, identification, labelling or packaging, and other provisions contained in this Regulation, prohibit, restrict or hinder the placing on the market of fertilizers marked "EC fertilizer" which comply with the provisions of this Regulation.
2. Fertilizers that are marked "EC fertilizer" in accordance with this Regulation shall circulate freely within the Community.

## Article 6

### Compulsory statements

1. In order to satisfy the requirements of Article 9, Member States may prescribe that the indication of the nitrogen, phosphorus and potassium contents of fertilizers placed on their market is to be expressed in the following way:
  - (a) nitrogen solely in the elemental form (N);
  - (b) phosphorus and potassium solely in the elemental form (P, K);
  - (c) [or] phosphorus and potassium solely in the oxide form (P<sub>2</sub>O<sub>5</sub>, K<sub>2</sub>O);
  - (d) [or] phosphorus and potassium in both elemental and oxide forms simultaneously.

Where the option is chosen to prescribe that the phosphorus and potassium contents be expressed in the form of elements, all references in the Annexes to the oxide form shall read as being in elemental form and the numerical values converted using the following factors:

- (a) phosphorus (P) = phosphorus pentoxide (P<sub>2</sub>O<sub>5</sub>) x 0,436;
  - (b) potassium (K) = potassium oxide (K<sub>2</sub>O) x 0,830.
2. Member States may prescribe that the calcium, magnesium, sodium and sulphur contents of secondary nutrient fertilizers and, where the conditions of Article 17 are fulfilled, of primary nutrient fertilizers placed on their markets are to be expressed:
    - (a) in the oxide form (CaO, MgO, Na<sub>2</sub>O, SO<sub>3</sub>);
    - (b) or in the elemental form (Ca, Mg, Na, S);
    - (c) or in both of these forms.

To convert the calcium oxide, magnesium oxide, sodium oxide and sulphur trioxide contents into calcium, magnesium, sodium and sulphur contents, the following factors shall be used:

- (a) calcium (Ca) = calcium oxide (CaO) x 0,715;
- (b) magnesium (Mg) = magnesium oxide (MgO) x 0,603;
- (c) sodium (Na) = sodium oxide (Na<sub>2</sub>O) x 0,742;
- (d) sulphur (S) = sulphur trioxide (SO<sub>3</sub>) x 0,400.

For the calculated oxide or elemental content, the figure declared shall be rounded to the nearest decimal place.

- 3. Member States shall not prevent the placing on the market of an "EC fertilizer" labelled in both of the forms mentioned in paragraphs 1 and 2.
- 4. The content of one or more of the micro-nutrients boron, cobalt, copper, iron, manganese, molybdenum, or zinc in the EC fertilizers belonging to the types of fertilizers listed in sections A, B, C and D of Annex I shall be declared where the following conditions are fulfilled:
  - (a) the micro-nutrients are added at least in the minimum quantities specified in section E.2.2 and E.2.3 of Annex I;
  - (b) the EC fertilizer continues to satisfy the requirements of sections A, B, C and D of Annex I.
- 5. Where the micro-nutrients are the normal ingredients of the raw materials intended to supply primary (N, P, K) and secondary (Ca, Mg, Na, S) nutrients, they may be declared, provided that these micro-nutrients are present at least in the minimum quantities specified in sections E.2.2 and E.2.3 of Annex I.

6. The micro-nutrient content shall be declared in the following manner:
- (a) for fertilizers belonging to the types of fertilizers listed in section E.1 of Annex I, in accordance with the requirements set out in column 6 of that section;
  - (b) for mixtures of fertilizers referred to in (a) containing at least two different micro-nutrients and meeting the requirements of section E.2.1 of Annex I and for fertilizers belonging to the types of fertilizers listed in sections A, B, C and D of Annex I, by indicating:
    - (i) the total content, expressed as a percentage of the fertilizer by mass,
    - (ii) the water-soluble content, expressed as a percentage of the fertilizer by mass, where the soluble content is at least half of the total content.

Where a micro-nutrient is totally water-soluble, only the water-soluble content shall be declared.

Where a micro-nutrient is chemically linked with an organic molecule, the content of the micro-nutrient present in the fertilizer shall be declared immediately following the water-soluble content as a percentage by mass of the product, followed by one of the terms "chelated by", or "complexed by" with the name of the organic molecule as set out in section E.3 of Annex I. The name of the organic molecule may be replaced by its initials.

#### Article 7

#### **Identification**

1. The manufacturer shall provide EC fertilizers with the identification markings listed in Article 9.

2. If the fertilizers are packed, these identification markings shall appear on the packages or labels attached. If the fertilizers are in bulk, these markings shall appear on the accompanying documents.

Article 8  
**Traceability**

Without prejudice to Article 26 (3), the manufacturer shall, to ensure traceability of EC fertilizers, maintain records of the origin of the fertilizers. These records shall be available for inspection by Member States for as long as the fertilizer is being supplied to the market, and for a further period of 2 years after the manufacturer stopped supplying it.

Article 9  
**Markings**

1. Without prejudice to other Community rules, the packages, labels and accompanying documents, referred to in Article 7 shall bear the following markings:
  - (a) Compulsory identification
    - The words "EC FERTILIZER" in capital letters;
    - Where it exists, the designation of the type of fertilizer as set out in Annex 1;
    - For blended fertilizers, the marking "blend" after the designation of the type;
    - The additional markings specified in Article 19, 21 or 23;
    - Nutrients shall be indicated both in words and by the appropriate chemical symbols, e.g. nitrogen (N), phosphorus (P), phosphorus pentoxide (P<sub>2</sub>O<sub>5</sub>),



potassium (K), potassium oxide (K<sub>2</sub>O), calcium (Ca), calcium oxide (CaO), magnesium (Mg), magnesium oxide (MgO), sodium (Na), sodium oxide (Na<sub>2</sub>O), sulphur (S), sulphur trioxide (SO<sub>3</sub>), boron (B), copper (Cu), cobalt (Co), iron (Fe), manganese (Mn), molybdenum (Mo), zinc (Zn);

- If the fertilizer contains micro-nutrients of which all or part are chemically linked with an organic molecule, the name of the micro-nutrient shall be followed by one of the following qualifiers:
  - (i) "chelated by ..." (name of chelating agent or its abbreviation as set out in section E.3.1 of Annex I);
  - (ii) "complexed by ..." (name of complexing agent as set out in section E.3.2 of Annex I);
- Micro-nutrients contained in the fertilizer, listed in the alphabetical order of their chemical symbols: B, Co, Cu, Fe, Mn, Mo, Zn;
- For products listed in sections E.1 and E.2 of Annex I, the specific directions for use;
- Quantities of fluid fertilizers, expressed by mass. The expression of quantities of fluid fertilizers by volume or in terms of mass versus volume (kilograms per hectolitre or grams per litre) shall be optional;
- Net or gross mass and, optionally, volume for fluid fertilizers. If the gross mass is given, the tare mass must be indicated beside it;
- The name or trade name and the address of the manufacturer.

(b) Optional identification

- As listed in Annex I;
- The directions for the storage and handling, and for fertilizers not listed in Annex I, sections E.1 and E.2, the specific directions for the use of the fertilizer;
- Indications of the dose rates and conditions of use suitable for the soil and crop conditions under which the fertilizer is used;
- The mark of the manufacturer and the trade description of the product.

The indications referred to in (b) must not conflict with those referred to in (a) and must be clearly separated from them.

2. All the markings referred to in paragraph 1 must be clearly separated from any other information on the packages, labels and accompanying documents.
3. Fluid fertilizers may be placed on the market only if the manufacturer provides suitable additional instructions covering, in particular, storage temperature and prevention of accidents during storage.
4. Detailed rules for the application of this Article shall be adopted under the regulatory procedure referred to in Article 32 (2).

## Article 10

### **Labelling**

1. The labels or markings printed on the package and giving the particulars mentioned under Article 9 must be placed in a conspicuous position. Labels must be attached to the package or to whatever system is used for closing it. If this system consists of a seal, that seal must bear the name or mark of the packager.
2. The markings referred to in paragraph 1 must be and must remain indelible and clearly legible.
3. In the cases of fertilizers in bulk referred to in the second sentence of Article 7(2) a copy of the documents containing the identification markings must accompany the goods and be accessible for inspection purposes.

## Article 11

### **Languages**

The label, the markings on the package and the accompanying documents must appear in at least the national language or languages of the Member State in which it is marketed.

## Article 12

### **Packaging**

In the case of packaged EC fertilizers, the package must be closed in such a way or by such a device that, when it is opened, the fastening, fastening seal or the package itself is irreparably damaged. Valve sacks may be used.

## Article 13

### **Tolerances**

1. The nutrient content of EC fertilizers shall comply with the tolerances established in Annex II, which are intended to allow for deviations in manufacture, sampling and analysis.
2. The manufacturer shall not take systematic advantage of the tolerances given in Annex II.
3. No tolerances are allowed in respect of the minimum and maximum contents specified in Annex I.

## Article 14

### **Fertilizer requirements**

A type of fertilizer may only be included in Annex I if:

- (a) it provides nutrients in an effective manner;
- (b) relevant sampling, analysis, and if required, test methods are being provided.
- (c) under normal conditions of use it does not adversely affect human, animal, or plant health, or the environment.

## Article 15

### **Safeguard clause**

1. Where a Member State has justifiable grounds for believing that a specific EC fertilizer, although satisfying the requirements of this Regulation, constitutes a risk to safety or health of humans, animals or plants or a risk to the environment, it may temporarily prohibit the placing

on the market of that fertilizer in its territory or make it subject to special conditions. It shall immediately inform the other Member States and the Commission thereof, giving the reasons for its decision.

[...]

3. The Commission shall adopt a decision on the matter within 90 days from the receipt of the information in accordance with the regulatory procedure referred to in Article 32(2).
4. The provisions of this Regulation shall not preclude the taking of measures by the Commission or by a Member State which are justified on grounds of public security to prohibit, restrict or hinder the placing on the market of EC fertilizers.

## TITLE II

### **PROVISIONS FOR SPECIFIC TYPES OF FERTILIZERS**

#### CHAPTER I

#### *INORGANIC PRIMARY NUTRIENT FERTILIZERS*

##### Article 16

##### **Scope**

This chapter shall apply to inorganic primary nutrient fertilizers, solid or fluid, straight or compound, including those containing secondary nutrients and/or micro-nutrients, with the minimum nutrient content established in sections A, B, C, E.2.2 or E.2.3 of Annex I.

## Article 17

### **Declaration of secondary nutrients in primary nutrient fertilizers**

1. Calcium, magnesium, sodium and sulphur content may be declared as secondary nutrient content of EC fertilizers belonging to the types of fertilizer listed in sections A, B and C of Annex I, provided that these elements are present in at least the following minimum quantities:
  - (a) 2% calcium oxide (CaO), i.e. 1,4% Ca;
  - (b) 2% of magnesium oxide (MgO), i.e. 1,2% Mg;
  - (c) 3% of sodium oxide (Na<sub>2</sub>O), i.e. 2,2% Na;
  - (d) 5% of sulphur trioxide (SO<sub>3</sub>), i.e. 2% S.

In such a case, the additional marking specified in Article 19(2)(ii) shall be added to the type designation.

## Article 18

### **Calcium, magnesium, sodium and sulphur**

1. The declaration of the magnesium, sodium and sulphur content of the fertilizers listed in sections A, B, and C of Annex I shall be expressed in one of the following ways:
  - (a) the total content expressed as a percentage of the fertilizer by mass;
  - (b) the total content and the content soluble in water, expressed as a percentage of the fertilizer by mass where the soluble content is at least a quarter of the total content;
  - (c) where an element is totally soluble in water, only the content soluble in water shall be declared as a percentage of the mass.

2. Unless otherwise stated in Annex I, a declaration of the calcium content shall only be made if it is soluble in water and shall be expressed as a percentage of the fertilizer by mass.

## Article 19

### **Identification**

1. In addition to the compulsory identification markings referred to in Article 9(1)(a), the markings set out in paragraphs 2, 2a, 3, 3a and 4 of this Article shall be stated.
2. The following shall be stated after the type designation of compound fertilizers:
  - (i) The chemical symbols of the declared secondary nutrients, between brackets and after the symbols of the primary nutrients.
  - (ii) Numbers indicating the primary nutrient content. The declared secondary nutrient content shall be indicated between brackets after the primary nutrient content.
- 2a. The fertilizer type designation shall only be followed by figures indicating primary and secondary nutrient content.
3. Where micro-nutrients are declared, the words "with micro-nutrients" or the word "with" followed by the name or names and chemical symbols of the micro-nutrients present.
- 3a. The declared content of primary nutrients and secondary nutrients shall be given as a percentage by mass, as whole numbers or, where necessary, where an appropriate method of analysis exists, to one decimal place.

In fertilizers containing more than one declared nutrient, the order shall be for primary nutrients: N, P<sub>2</sub>O<sub>5</sub> and/or P, K<sub>2</sub>O and/or K, and for secondary nutrients: CaO and/or Ca, MgO and/or Mg, Na<sub>2</sub>O and/or Na, SO<sub>3</sub> and/or S.

The declared content of micro-nutrients shall give the name and symbol of each micro-nutrient, indicating the percentage by mass as specified in sections E.2.2 and E.2.3 of Annex I and according to solubility.

4. The forms and solubility of the nutrients shall also be expressed as a percentage by mass of fertilizer, except where Annex I explicitly provides that this content shall be otherwise expressed.

The number of decimal places shall be one, except for micro-nutrients where it shall be as specified in sections E.2.2 and E.2.3 of Annex I.

## CHAPTER II

### *INORGANIC SECONDARY NUTRIENT FERTILIZERS*

#### Article 20

##### **Scope**

This chapter shall apply to inorganic secondary nutrient fertilizers, solid or fluid, including those containing micro-nutrients, with the minimum nutrient content established in sections D, E.2.2, and E.2.3 of Annex I.

#### Article 21

##### **Identification**

1. In addition to the compulsory identification markings referred to in Article 9(1)(a), the markings set out in paragraphs 2, 3, 4 and 5 of this Article shall be stated.
2. Where micro-nutrients are declared, the words "with micro-nutrients" or the word "with", followed by the name or names and chemical symbols of the micro-nutrients present, shall be given.



3. The declared content of secondary nutrients shall be given as a percentage by mass, as whole numbers or, where necessary, where an appropriate method of analysis exists, to one decimal place.

Where more than one secondary nutrient is present, the order shall be:

CaO and/or Ca, MgO and/or Mg, Na<sub>2</sub>O and/or Na, SO<sub>3</sub> and/or S.

The declared content of micro-nutrients shall give the name and symbol of each micro-nutrient, indicating the percentage by mass as specified in sections E.2.2 and E.2.3 of Annex I and according to solubility.

4. The forms and solubility of the nutrients shall also be expressed as a percentage by mass of fertilizer, except where Annex I explicitly provides that this content shall be otherwise expressed.

The number of decimal places shall be one, except for micro-nutrients where it shall be as specified in sections E.2.2 and E.2.3 of Annex I.

5. Unless otherwise stated in Annex I, a declaration of the calcium content shall only be made if it is soluble in water and shall be expressed as a percentage of the fertilizer by mass.

## CHAPTER III

### *INORGANIC MICRO-NUTRIENT FERTILIZERS*

#### Article 22

#### **Scope**

This chapter shall apply to inorganic micro-nutrient fertilizers, solid or fluid, with the minimum nutrient content established in sections E.1 and E.2.1 of Annex I.

## Article 23

### Identification

1. In addition to the compulsory identification markings referred to in Article 9(1)(a) the markings set out in paragraphs 2, 3, 4 and 5 of this Article shall be stated.
2. Where the fertilizer contains more than one micro-nutrient, the type designation "mixture of micro-nutrients", followed by the names of the micro-nutrients present and their chemical symbols, shall be given".
3. For fertilizers containing only one micro-nutrient (section E.1 of Annex I), the declared micro-nutrient content shall be given as a percentage by mass, in whole numbers or, where necessary, to one decimal place.
4. The forms and solubility of micro-nutrients shall be expressed as a percentage by mass of fertilizer, except where Annex I explicitly provides that this content shall be otherwise expressed.

The number of decimal places for micro-nutrients shall be as specified in section E.2.1 of Annex I.

5. Below the compulsory or optional declarations the following shall be entered on the label and accompanying documents with regard to the products appearing in sections E.1 and E.2.1 of Annex I:

"To be used only where there is a recognised need. Do not exceed the appropriate dose rates."

Article 24

**Packaging**

EC fertilizers covered by the provisions of this chapter shall be packaged.

CHAPTER IV

***AMMONIUM NITRATE FERTILIZERS OF HIGH NITROGEN CONTENT***

Article 25

**Scope**

For the purpose of this chapter, ammonium nitrate fertilizers of high nitrogen content, straight or compound, are ammonium nitrate based products manufactured for use as fertilizers and containing more than 28% by mass of nitrogen in relation to ammonium nitrate.

This type of fertilizer may contain inorganic or inert substances.

The substances used in the manufacturing of this type of fertilizer must not increase its sensitivity to heat or its tendency to detonate.

Article 26

**Safety measures and controls**

1. The manufacturer shall ensure that straight ammonium nitrate fertilizers of high nitrogen content comply with the provisions of section 1 of Annex III.
2. The checking, analysis and testing for official controls of straight ammonium nitrate fertilizers of high nitrogen content provided for by this chapter shall be carried out in accordance with the methods described in section 3 of Annex III.

3. To ensure the traceability of ammonium nitrate EC fertilizers of high nitrogen content placed on the market, the manufacturer shall maintain records of the names and addresses of the sites, and of the operators of the sites, at which the fertilizer and its *principal* components were produced. *These* records shall be available for inspection by Member States for as long as the fertilizer is *being supplied to* [...] the market, and for a further period of 2 years [...] *after the manufacturer stopped supplying it*.

#### Article 27

##### **Test of resistance to detonation**

Without prejudice to the measures referred to in Article 26, the manufacturer shall ensure that each *type of* EC high nitrogen content ammonium nitrate fertilizer placed on the market has passed the test of resistance to detonation described in sections 2, 3 (method 1, point 3) and 4 of Annex III of this Regulation. This test shall be carried out by one of the approved laboratories referred to in Article 30(1). Manufacturers shall submit the results of the test to the competent authority of the Member State concerned at least 5 days before placing the fertilizer on the market, or at least 5 days before the arrival of the fertilizer at the borders of the European Community in the case of imports. Thereafter, the manufacturer shall continue to guarantee that all supplies of the fertilizer placed on the market are capable of passing the above-mentioned test.

#### Article 28

##### **Packaging**

Ammonium nitrate fertilizers of high nitrogen content shall be made available to the final user only in packaged form.

TITLE III  
**CONFORMITY ASSESSMENT OF FERTILIZERS**

Article 29

**Control Measures**

1. Member States may subject fertilizers marked "EC FERTILIZER" to official control measures for the purpose of verifying that they comply with this Regulation. [...].

Member States shall have the possibility to charge fees not exceeding the cost of tests needed for such control measures, but this shall not oblige manufacturers to repeat tests nor to pay for repeated tests where the first test was made by a laboratory which fulfilled the conditions of Article 30 and where the test showed compliance of the fertilizer in question.

2. Member States shall ensure that sampling and analysis for official controls of EC fertilizers belonging to types of fertilizers listed in Annex I are carried out in accordance with the methods described in Annex III and IV.
3. Compliance with this Regulation in respect of conformity to types of fertilizer and compliance with the declared nutrient content and/or the declared content expressed as forms and solubilities of such nutrients may be verified at official inspections only by means of sampling and analysis methods established in accordance with Annex III and IV and taking into account the tolerances specified in Annex II.
4. The adaptation and modernisation of measuring, sampling and analysis methods shall follow the *regulatory* procedure referred to in Article 32(2), and shall, wherever possible, use European Standards. The same procedure shall apply to the adoption of implementing rules needed to specify the control measures foreseen under this Article and under Articles 8, 26 and 27 of this Regulation. Such rules shall in particular address the question of the frequency with which tests need to be repeated, as well as measures that are designed to ensure that the fertilizer put on the market is identical with the fertilizer tested.

Article 30  
**Laboratories**

1. Member States shall notify to the Commission those approved laboratories on their territories that are competent [...] to provide the necessary services for checking compliance of EC fertilizers with the requirements of this Regulation. Such laboratories [...] must meet the standards mentioned in section B of Annex V.

[...]

3. The Commission shall publish the list of approved laboratories in the *Official Journal of the European Communities*.
4. Where a Member State has justifiable grounds for believing that an approved laboratory does not [...] meet the standards referred to in paragraph [...] 1 of this Article, it shall raise this matter in the committee referred to in Article 32. If the committee agrees that the laboratory does not [...] meet the standards, the Commission shall remove the name from the list referred to in Article 30(3).
5. The Commission shall adopt a decision on the matter within 90 days from the receipt of the information in accordance with the regulatory procedure referred to in Article 32(2).
6. The Commission shall publish the amended list in the *Official Journal of The European Communities*.

## TITLE IV

### FINAL PROVISIONS

#### CHAPTER I

#### *ADAPTATION OF THE ANNEXES*

##### Article 31

##### **New EC Fertilizers**

1. The inclusion of a new type of fertilizer in Annex I of this Regulation shall be adopted in accordance with the regulatory procedure referred to in Article 32(2).
2. A manufacturer or its representative wishing to propose a new type of fertilizer for inclusion in Annex I and required to compile a technical file for that purpose, shall do so by taking into account the technical documents referred to in section A of Annex V.
3. Amendments required to adapt the Annexes to technical progress shall be adopted in accordance with the regulatory procedure referred to in Article 32(2).

##### Article 32

##### **Committee procedure**

1. The Commission shall be assisted by a committee (hereinafter referred to as "the Committee").
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, without prejudice to Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

3. The Committee shall adopt its rules of procedure.

## CHAPTER II

### ***TRANSITIONAL PROVISIONS***

#### Article 33

[..]<sup>23</sup>

#### Article 34

### **Competent laboratories**

1. Without prejudice to the provisions of Article 30(2), Member States may for a transitional period until [48 months after entry into force of the Regulation] continue to apply their national provisions for authorising competent laboratories to provide the necessary services for checking compliance of EC fertilizers with the requirements of this Regulation.
2. Member States shall notify these laboratories to the Commission, giving details of their authorisation scheme.

#### Article 35

### **Packaging and labelling**

EC fertilizer packagings, labels and accompanying documents provided for by earlier Directives may continue to be used until [one year after entry into force of the Regulation].

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<sup>23</sup> Reservations by the S and FIN delegations on the deletion of Article 33. Linked to Article 36 (2)



CHAPTER III  
**FINAL PROVISIONS**

Article 36

**Repealed Directives**

1. Directives 76/116/EEC, 77/535/EEC, 80/876/EEC and 87/94/EEC are hereby repealed.
2. References to the Directives repealed shall be construed as references to this [...] *Regulation*. In particular, derogations from Article 7 of Directive 76/116/EEC that were granted by the Commission under Article 95 (6) EC Treaty shall be construed as derogations from Article 5 of the present Regulation and shall continue to produce their effects notwithstanding the entry into force of this Regulation.<sup>24</sup>

Article 37

**Penalties**

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.

Article 37A

**National provisions**

The Member States shall notify the Commission by [the day before entry into force of the Regulation] if any national provisions adopted pursuant to Articles 6(1), 6(2), 8, 29.1 and 37 of this Regulation, and shall notify it without delay of any subsequent amendment affecting them.

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<sup>24</sup> Scrutiny reservations entered by the S and FIN delegations. Linked to Article 33.

Article 38  
**Entry into force**

This Regulation shall enter into force on [18 months after its publication in the Official Journal].

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

Done at Brussels,

For the European Parliament  
The President

For the Council  
The President

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## ANNEX I

Modification of the text in table E.1.4 \*:

4b	Iron chelate	Water soluble product obtained by chemical reaction of iron with chelating agents mentioned in the list of Annex I chapter E.3	5% of water soluble iron, of which the chelated fraction is at least 80%.	Name of the chelating agents	<ul style="list-style-type: none"> <li>– Iron (Fe) water soluble</li> <li>– Chelated fraction (EN 13366)</li> <li>– Iron (Fe) chelated by each chelating agent insofar as each fraction exceeds 2% (EN 13368 part 1 and 2)</li> </ul>
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\* Apart from this modification, the content of the Annexes remains unchanged and as set out in the Commission's proposal (doc. 12005/01).

## ANNEX I

Modification of the text in chapter E3:

### E3. List of authorised organic chelating and complexing agents for micro-nutrients.

The following products are authorised provided they have complied with the requirements of Directive 67/548/EEC<sup>25</sup> as amended.

#### *Chelating agents*<sup>26</sup>

Sodium, potassium or ammonium acid or salts of:

ethylenediaminetetraacetic acid	EDTA	C <sub>10</sub> H <sub>16</sub> O <sub>8</sub> N <sub>2</sub>
diethylenetriaminepentaacetic acid	DTPA	C <sub>14</sub> H <sub>23</sub> O <sub>10</sub> N <sub>3</sub>
[o,o]: ethylenediamine – di (o-hydroxyphenyl acetic) acid	EDDHA	C <sub>18</sub> H <sub>20</sub> O <sub>6</sub> N <sub>2</sub>
[o,p]: ethylenediamine-N-(o-hydroxyphenylacetic) acid)-N'-(p-hydroxyphenylacetic) acid	EDDHA	C <sub>18</sub> H <sub>20</sub> O <sub>6</sub> N <sub>2</sub>
2-hydroxyethylethylenediaminetriacetic acid	HEEDTA	C <sub>10</sub> H <sub>18</sub> O <sub>7</sub> N <sub>2</sub>
[o,o]: ethylenediamine-di (o-hydroxy o-methylphenylacetic) acid	EDDHMA	C <sub>20</sub> H <sub>24</sub> O <sub>6</sub> N <sub>2</sub>
[o,p]: ethylenediamine-di (o-hydroxy-p-methylphenylacetic) acid	EDDHMA	C <sub>20</sub> H <sub>24</sub> O <sub>6</sub> N <sub>2</sub>
[p,o]: ethylenediamine-di (p-hydroxy-o-methylphenylacetic) acid	EDDHMA	C <sub>20</sub> H <sub>24</sub> O <sub>6</sub> N <sub>2</sub>
[2,4]: ethylenediamine di (2-hydroxy-4-carboxyphenylacetic) acid	EDDCHA	C <sub>20</sub> H <sub>20</sub> O <sub>10</sub> N <sub>2</sub>
[2,5]: ethylenediamine di (2-carboxy-5-hydroxyphenylacetic) acid	EDDCHA	C <sub>20</sub> H <sub>20</sub> O <sub>10</sub> N <sub>2</sub>
[5,2]: ethylenediamine di (5-carboxy-2 hydroxyphenylacetic) acid	EDDCHA	C <sub>20</sub> H <sub>20</sub> O <sub>10</sub> N <sub>2</sub>

#### *Complexing agents :*

List to be drawn up.

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<sup>25</sup> OJ 196, 16.08.1967, p 1

<sup>26</sup> The chelating agents are to be identified and quantified by European Standard EN 13368 part 1 and part 2, to the extent that this standard covers the above agents.