

COUNCIL DECISION

of 18 December 2006

on the conclusion, on behalf of the European Community, of an amendment to the Convention on access to information, public participation in decision-making and access to justice in environmental matters

(2006/957/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1), in conjunction with the first sentence of the first subparagraph of Article 300(2), and the first subparagraph of Article 300(3), thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) The UN/ECE Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention) aims to grant the public rights, and imposes obligations on Parties and public authorities, regarding access to information and public participation and access to justice regarding environmental matters.

(2) The European Community, in accordance with the Treaty, and in particular Article 175(1) thereof, has competence, together with its Member States, to enter into international agreements that contribute to the pursuit of the objectives listed in Article 174(1) of the Treaty and to implement the resulting obligations.

(3) The Community signed the Aarhus Convention on 25 June 1998. The Convention entered into force on 30 October 2001. The Community approved the Convention on 17 February 2005, in accordance with Council Decision 2005/370/EC ⁽¹⁾.

(4) The second meeting of the Parties, held on 25-27 May 2005, adopted an amendment to the Aarhus Convention making more specific the obligations placed on Parties with regard to public participation in genetically modified organism (GMO) decision-making processes. Relevant Community law governing GMOs, and in particular Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms ⁽²⁾ and Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽³⁾, incorporates provisions for public participation in decision-making on GMOs, consistent with the amendment to the Aarhus Convention.

(5) The amendment to the Aarhus Convention has been open for ratification, acceptance or approval by Parties since 27 September 2005. The European Community and its Member States should take the necessary steps to permit the deposit, as far as possible simultaneously, of their instruments of ratification, acceptance or approval.

(6) The amendment to the Aarhus Convention should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The amendment to the Aarhus Convention concerning public participation in decision-making on genetically modified organisms is hereby approved on behalf of the Community.

The text of the amendment to the Aarhus Convention is attached to this Decision.

⁽¹⁾ OJ L 124, 17.5.2005, p. 1.

⁽²⁾ OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p. 24).

⁽³⁾ OJ L 268, 18.10.2003, p. 1.

Article 2

1. The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval of the amendment with the Secretary-General of the United Nations, in accordance with Article 14 of the Aarhus Convention.

2. The European Community and Member States which are Parties to the Aarhus Convention shall endeavour to deposit as soon as possible, and not later than 1 February 2008, their instruments of ratification, acceptance or approval of the amendment.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 December 2006.

For the Council
The President
J.-E. ENESTAM

ANNEX

Amendment to the convention on access to information, public participation in decision-making and access to justice in environmental matters

Article 6, paragraph 11

For the existing text, substitute:

'11. Without prejudice to Article 3, paragraph 5, the provisions of this Article shall not apply to decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.'

Article 6 bis

After Article 6, insert a new article reading:

'Article 6 bis

Public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms

1. In accordance with the modalities laid down in Annex I bis, each Party shall provide for early and effective information and public participation prior to making decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.
2. The requirements made by Parties in accordance with the provisions of paragraph 1 of this Article should be complementary and mutually supportive to the provisions of their national biosafety framework, consistent with the objectives of the Cartagena Protocol on Biosafety.'

Annex I bis

After Annex I, insert a new annex reading:

'Annex I bis

Modalities referred to in article 6 bis

1. Each Party shall lay down, in its regulatory framework, arrangements for effective information and public participation for decisions subject to the provisions of Article 6 bis, which shall include a reasonable time frame, in order to give the public an adequate opportunity to express an opinion on such proposed decisions.
2. In its regulatory framework, a Party may, if appropriate, provide for exceptions to the public participation procedure laid down in this annex:
 - (a) In the case of the deliberate release of a genetically modified organism (GMO) into the environment for any purpose other than its placing on the market, if:
 - (i) such a release under comparable bio-geographical conditions has already been approved within the regulatory framework of the Party concerned;
 - and
 - (ii) sufficient experience has previously been gained with the release of the GMO in question in comparable ecosystems.

- (b) In the case of the placing of a GMO on the market, if:
- (i) It was already approved within the regulatory framework of the Party concerned;
 - or
 - (ii) It is intended for research or for culture collections.
3. Without prejudice to the applicable legislation on confidentiality in accordance with the provisions of Article 4, each Party shall make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorisation for the deliberate release into the environment or the placing on the market of a GMO on its territory, as well as the assessment report where available and in accordance with its national biosafety framework.
4. Parties shall in no case consider the following information as confidential:
- (a) A general description of the genetically modified organism or organisms concerned, the name and address of the applicant for the authorisation of the deliberate release, the intended uses and, if appropriate, the location of the release.
 - (b) The methods and plans for monitoring the genetically modified organism or organisms concerned and for emergency response.
 - (c) The environmental risk assessment.
5. Each Party shall ensure transparency of decision-making procedures and provide access to the relevant procedural information to the public. This information could include for example:
- (i) The nature of possible decisions.
 - (ii) The public authority responsible for making the decision.
 - (iii) Public participation arrangements laid down pursuant to paragraph 1.
 - (iv) An indication of the public authority from which relevant information can be obtained.
 - (v) An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments.
6. The provisions made pursuant to paragraph 1 shall allow the public to submit any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release, including placing on the market, in any appropriate manner.
7. Each Party shall endeavour to ensure that, when decisions are taken on whether to permit the deliberate release of GMOs into the environment, including placing on the market, due account is taken of the outcome of the public participation procedure organised pursuant to paragraph 1.
8. Parties shall provide that when a decision subject to the provisions of this Annex has been taken by a public authority, the text of the decision is made publicly available along with the reasons and considerations upon which it is based.
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