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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.12.2009
COM(2009)653 final

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union concerning the proposal to amend the Annex A of the Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Grounds for and objectives of the proposal

The Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances sets out measures aimed at strengthening the co-operation to prevent the diversion of drug precursors for the illicit drug manufacture. The European Union replaces and succeeds the European Community in the Agreement.

The measures set out in the agreement build upon the drug precursor legislation in force in the European Union and in the People's Republic of China.

Annex A of this Agreement sets out sensitive drug precursor substances for which the strictest control provisions apply. Annex A currently covers 'safrole rich oils'. While these substances are principally covered by the European Union drug precursor legislation, such substances are outside the scope the legislation of the People's Republic of China. Currently the Chinese drug precursor legislation covers sassafras oil.

In order to enable the Government of the People's Republic of China to fulfil its obligations under the agreement, the term 'safrole rich oils' should be replaced by 'sassafras oil'.

1.2. General context

The European Union continues to be reported as a world's major source of synthetic drugs, e. g. amphetamine and MDMA (commonly referred to as ecstasy). The synthetic drug precursors required to produce those drugs are not easily available in the European Union and must be sourced outside. China is the world's major supplier for these synthetic drug precursors.

The proposed measure will enable the People's Republic of China to fulfil its obligations under the agreement.

1.3. Existing provisions in the area of the proposal

Article 12 of the United Nations Convention against illicit traffic in narcotics drugs and psychotropic substances of 1988.

Regulation (EC) No 273/2004 of the European Parliament and of the Council on drug precursors.

Council Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors.

Commission Regulation (EC) No 1277/2005 laying down implementing rules for Regulation (EC) No 273/2004 of the European Parliament and of the Council on

drug precursors and for Council Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors.

1.4. Consistency with the other policies and objectives of the Union

The proposal is consistent with the EU Action Plan on Drugs and the overall EU Drugs strategy.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1. Consultation of interested parties

Not relevant.

2.2. Collection and use of expertise

There was no need for external expertise.

2.3. Impact assessment

The main aim of the proposed measure is to enable the Government of the People's Republic of China to apply the obligations of the agreement. Deleting safrole rich oils and inserting sassafras oil will reduce the administrative burden.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

The proposed measure will enable the European Union to take a position to amend the Annex of the Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances by replacing safrole rich oils by sassafras oil.

3.2. Legal basis

Article 207 and Article 218 (09) TFEU.

3.3. Subsidiarity principle

The proposal is in conformity with the principle of subsidiary. It implements an amendment to the international agreement which as such respects the principle of subsidiary.

3.4. Proportionality principle

The proposal is in conformity with the principle of proportionality. It implements an amendment to the international agreement which as such respects the principle of proportionality.

3.5. Choice of instruments

Proposed instruments: Decision.

International agreements and amendments to these arrangements are normally introduced into the European Union's legal order by way of a Decision.

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union concerning the proposal to amend the Annex A of the Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union , and in particular Article 207, in conjunction with Article 218 (9) thereof,

Whereas:

- (1) The Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances laying down measures to strengthen the control of the trade between the European Union and the People's Republic of China in drug precursors was approved on behalf of the European Union by Council Decision 2009/166/EC of 27 November 2008¹ and entered into force on 11 July 2009²;
- (2) The measures of this Agreement build upon the measures set out by Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors³ for the European Union and the respective legislation in the People's Republic of China;
- (3) Annex A of the Agreement specifies 'safrole rich oils'. These substances are not covered by the relevant Chinese legislation which only takes account of 'sassafras oil'. Annex A of the Agreement should therefore be amended accordingly;
- (4) In accordance with Article 10 (2) of the Agreement, the Joint Follow-Up Group established pursuant to Article 9 (1) of the Agreement, may adopt by mutual consent decisions to amend Annex A. Therefore, the European Union position concerning the proposed amendment should be determined,

¹ OJ L 56 of 28.02.2009, p. 6 – 14.

² OJ L 177 of 8.7.2009, p.7

³ OJ L 22 of 26.1.2005, p. 1 – 10.

HAS DECIDED AS FOLLOWS:

Article 1

The European Union's position within the Joint Follow-Up Group shall be based on the attached draft decision..

Article 2

The decision of the Joint Follow-Up Group shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*

ANNEX

**DECISION No 1/2009 OF THE EU -CHINA JOINT FOLLOW-UP GROUP ON DRUG
PRECURSORS**

of (...)

**amending Annex A of the Agreement between the European Community and the
Government of the People's Republic of China on drug precursors and substances
frequently used in the illicit manufacture of narcotic drugs and psychotropic substances**

THE JOINT FOLLOW-UP GROUP,

Having regard to the Agreement between the European Community and the Government of the People's Republic of China on drug precursors and substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, and in particular Article 10(2) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

Annex A to the Agreement is amended as follows: 'safrole rich oils' are replaced by 'sassafras oil'.

This Decision shall enter into force on the day of its adoption.

Done at ,

For the Joint Follow-Up Group