

Position on the EU Commission's proposal for amending the Directive on control of major-accident hazards involving dangerous substances ("Seveso Directive") – status: 27 September 2011

Fecc acknowledges the Commission's proposal to introduce corrective mechanisms to improve flexibility by allowing for the exclusion of certain substances from the scope of the Directive if they do not present a major-accident hazard. However, we remain concerned by some of the other provisions that extend the scope of the Directive, the rules for inspection and for information to the public.

Fecc has been actively following the discussion in the European Parliament on the draft Directive and have therefore taken time to carefully consider the rapporteur's draft report and the amendments submitted by fellow Members of the ENVI and ITRE Committees

In this respect, we would like to express our support on the proposed following amendments introduced by the ENVI and ITRE Committees:

1. Limit the extension of the scope of the Directive

Fecc supports the principle embodied by amendments 259 and 260. Indeed tighter rules are neither necessary nor justified because of safety reasons, industry should not be unnecessarily burdened with stricter provisions and thus extra costs. This applies in particular to SMEs. The chemical industry assessment is that an additional 10% plus of establishments will fall under the revised Directive as a consequence of the amendment as proposed by the Commission, with no appreciable added safety benefit.

2. Inspections: no rigid time periods and no wider requirements

Fecc welcomes the principle embodied by amendments 228 and 229 since rigid inspection periods and the significant widening of the Directives scope will involve higher workloads, costs and administrative burdens for both companies, especially SMEs, and Member State Competent Authorities. The existing system, has proven its effectiveness and allows the necessary flexibility for a risk-oriented approach for Competent Authorities to focus its regulatory efforts on 'higher frequency, high impact' activities.

3. Information to the public: no extension of requirements

Fecc strongly supports the principle introduced by amendments 318 and 319 (the ENVI Committee) and 111 (ITRE Committee) to delete Point 1 in Annex V Part 2. This point is too burdensome, too bureaucratic and it will adversely affect security of facilities by identifying potential targets for terrorist activities. DG Home currently have a working group discussing security at high risk CBRN sites and point 1 of Part 2 within annex V runs contrary to some of the discussions at this group.

4. Derogation and safeguard clauses; maintaining the regular legislative procedure for widening the scope of application

Fecc has consistently advocated that the criteria in Annex VII **MUST** be agreed and included into the regulatory text before the new Seveso proposal is formally adopted. Fecc therefore supports the principle embodied by a number of amendments 7, 8, 9, 10, 113, 119 and 120 introduced by the ENVI Committee and 53 and 54 introduced by the ITRE Committee. We consider it is unacceptable for there to be no discussion before the adoption of what will be the major criteria to be used to include new substances into Annex I, Part 3.

Regarding the alignment of the scope of the Seveso Directive to Regulation (EC) N° 1272/2008 (CLP) and its adaptations to technical progress, Fecc supports the principle embodied by amendments 253 and 254 introduced by the ENVI Committee and 92 and 93 introduced by the ITRE Committee. Fecc acknowledges that the 6 months period may be difficult to meet due to procedural requirements by the Institutions.

5. Self classification implementation timescales

Fecc has constantly highlighted in various meetings and discussions, that due to the inclusion of the 'M' factor for classification of substances for environmental effects, that classifications are become more stringent in CLP, due to the data collection regime within the REACH process. This is already causing the distributor sector severe problems.

Specific examples are the reclassification of Sodium hypochlorite and Sodium Chlorite. Fecc therefore supports the amendments 282, 283, 284, 285 and 286 from the ENVI Committee and 98 from the ITRE Committee, which will begin to address the impact already being encountered

However, this is only part of the overall solution as more sites are already beginning to fall into the scope of Seveso, solely due to the above mentioned provision in CLP, whilst not increasing the apparent risk of major hazard incidents. The current thresholds in Seveso were not negotiated with any details scientific reasoning and were introduced before the 'M' factor was introduced into legislation. To redress the impacts currently being encountered, Fecc supports the principle embodied by amendments 272 and 273 from the ENVI Committee and 97 from the ITRE Committee. The environmental classification system has changed drastically since its first publication and the thresholds need to be adjusted accordingly to realign them with the new classification regime, using a risk orientated approach.