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Regulation (EC) No 689/2008: Explicit consents procedure

PIC Uredba, radionica

Alexandre Zenié

Simone Garbin

Ángel del Río Martín



E D E X I M

European Database
on Export and Import
of Dangerous Chemicals

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<http://edexim.jrc.ec.europa.eu>

JRC-IHCP-EDEXIM@ec.europa.eu

Introduction

- ❖ **Explicit consent must be obtained prior to export of chemicals:**
 - subject to the PIC procedure under the RC (Part 3 of Annex I)
 - qualifying for PIC notification (Part 2 of Annex I)
- ❖ **Explicit consent is an exchanging mechanism between both:**
 - one exporting DNA and
 - one importing DNA
- ❖ **DNAs are encouraged to use the most relevant language for the importing country**

Principles

- ❑ Explicit consent procedure follows Article 13 'Obligations in relation to exports of chemicals other than export notification requirements' of the Regulation
- ❑ Explicit consent request is related to one or both categories of use in importing country:
 - industrial chemical
 - pesticide
- ❑ Each explicit consent has a unique identifier
- ❑ The status of an answered explicit consent 'Yes' or 'No' can change over time and it is uploaded on EDEXIM by the DNA

Procedure



- DNA should check EDEXIM to see if an applicable explicit consent response already exists

- If no, DNA sends, generally, to importing DNA:
 - Explicit consent request form
 - Relative export notification form
 - Explanatory note

Procedure *Cont'd*



- If the JRC or the DNA has not received a response within 30 days:
 - EDEXIM reminds automatically the importing DNA (three times maximum) when the explicit consent request has been sent by email
 - Commission reminds the importing DNA (three times maximum) if the explicit consent request has been sent by fax or post

- Once received, the DNA
 - updates the status from 'Requested' to 'Yes' or 'No' and
 - uploads the explicit consent on EDEXIM

Specificities

- Explicit consent can take different forms:
 - official import decision transmitted via the Secretariat
 - Filled-in explicit consent request form
 - acknowledgement of receipt of export notification
 - letter of confirmation
 - email

- An explicit consent remains valid for subsequent exports by any EU exporter for a period of three calendar years, unless any other time limitation is specified

Specificities (Cont'd)

- The explicit consents may be strictly related to the CAS number of the chemicals such as for nonylphenols and nonylphenol ethoxylates
- In the specific case of mercury compounds, the explicit consents are strictly related to the CAS number of the chemicals, such as CAS # 7487-94-7, because some substances are banned to be exported

Waiver management

- Decision to waive the requirements for answering an explicit consent
- Decision is explicitly granted by DG ENV
- Waiver can be used only by the Member State that requested it
- Waiver is valid for the maximum period of 12 months

Waiver pursuant to Article 13(7)

It applies when:

- despite all reasonable efforts, no response has been received within 60 days of the request
- evidence from official sources in the importing country that the chemical in question is licensed, registered or authorised in that country

Waiver pursuant to Article 13(6) Specific for exporting to OECD countries

It applies to:

- chemicals that are listed in only Part 2 of Annex I to the Regulation
- when the chemical is licensed, registered or authorised in the importing country belonging to the OECD countries