COMMISSION DECISION

of 26 April 2004

adopting Community import decisions for certain chemicals pursuant to Regulation (EC) No 304/2003 of the European Parliament and of the Council

(Text with EEA relevance)

(2004/382/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals [1], and in particular Article 12(1) thereof,

Whereas:

(1) Pursuant to Regulation (EC) No 304/2003 the Commission is to decide on behalf of the Community, whether or not to permit the import into the Community of each chemical subject to the prior informed consent (PIC) procedure.

(2) The United Nations Environment Programme (UNEP) and the Food and Agriculture Organization (FAO) have been appointed to provide secretariat services for the operation of the interim PIC procedure established by the Final Act of the Conference of Plenipotentiaries on the Rotterdam Convention on the Prior Informed Consent (PIC) procedure for certain hazardous chemicals and pesticides in international trade, signed on 11 September 1998, and approved by the Community by Council Decision 2003/106/EC of 19 December 2002 concerning the approval, on behalf of the European Community, of the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade [2], in particular the Resolution on interim arrangements laid down in the Final Act.

(3) The Commission, acting as common designated authority, is required to forward decisions on chemicals to the Secretariat of the interim PIC procedure, on behalf of the Community and its Member States.

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[1] OJ L 63, 6.3.2003, p. 1.
[2] OJ L 63, 6.3.2003, p. 27.

(4) The interim Secretariat has requested that the participants in the PIC procedure use the special Importing Country Response form when reporting their import decisions.

(5) The chemicals actinolite, amosite, anthophyllite and tremolite, which are all amphibole forms of asbestos fibres, have also been added to the interim PIC procedure and the Commission has received information from the interim secretariat in the form of a decision guidance document (which also covers crocidolite asbestos, which was already included in the interim PIC procedure and was subject to a final Community import decision that was reported in PIC circular IV reflecting the position as at 31 December 1994). All these chemicals have been progressively banned or severely restricted at Community level by means of a series of regulatory actions, the latest of which is Commission Directive 1999/77/EC of 26 July 1999 [3] adapting to technical progress for the sixth time Council directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations [4]. Accordingly a final import decision should be taken for actinolite, amosite, anthophyllite and tremolite and a revised and updated final decision should be taken in respect of crocidolite.

(6) The chemical DNOC has been added to the interim PIC procedure, as a pesticide, for which the Commission has received information from the interim Secretariat in the form of a decision guidance document. DNOC falls within the scope of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market [5], as last amended by Regulation (EC) No 806/2003 [6]. By Commission Decision 1999/164/EC of 17 February 1999 concerning the non-inclusion of DNOC of active substance in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance [7], DNOC was excluded from Annex I to Directive 91/414/EEC and authorisations for plant protection products containing it were to be withdrawn by 16 August 1999. Accordingly a final import decision should be taken.

(7) Certain pesticide formulations, in the form of dustable powder formulations containing a combination of benomyl at or above 7 %, carbofuran at or above 10 % and thiram at or above 15 %, have also been added to the interim PIC procedure. The Commission has received information from the interim secretariat in the form of a decision guidance document. The chemicals benomyl, carbofuran and thiram fall within the scope of Directive 91/414/EEC. By Commission Decision 2002/928/EC of 26 November 2002 concerning the non-inclusion of benomyl in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance [8], benomyl has been excluded from Annex I to Directive 91/414/EEC and authorisations for plant protection products containing it had to be withdrawn by 25 May 2003. Carbofuran is currently subject to an ongoing assessment within the framework of Directive 91/414/EEC. That Directive provides for a transitional period during which Member States are allowed to take national

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3 OJ L 262, 27.9.1976, 201.
4 OJ L 207, 6.8.1999, p. 18.
5 OJ L 230, 19.8.1991, p. 1.
6 OJ L 122, 16.5.2003, p. 1.
7 OJ L 54, 2.3.1999, p. 21.
8 OJ L 322, 27.11.2002, p. 53.

decisions on substances and products falling with its scope pending a Community decision. By Commission Directive 2003/81/EC of 5 September 2003 amending Directive 91/414/EEC to include molinate, thiram and ziram as active substances [9], thiram has been included in Annex I to Directive 91/414/EEC and is authorised for use in plant protection products subject to certain conditions. Thiram has also been notified under Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market [10], which provides for a transitional period during which Member States may, pending a Community decision, take a decision on substances and products falling within its scope. Consequently, an interim import decision should be taken for dustable powder formulations containing a combination of benomyl, carbofuran and thiram at or above the specified concentrations.

(8) The measures provided for in this Decision are in accordance with the opinion of the Committee set up pursuant to Article 29 of Council Directive 67/548/EEC [11], as last amended by Commission Directive 2001/59/EC [12],

HAS DECIDED AS FOLLOWS:

Article 1

The final decision on the import of the chemicals actinolite, amosite, anthophyllite, crocidolite and tremolite, as set out in the import response form contained in Annex I, is adopted.

Article 2

The final decision on the import of the chemical DNOC, as set out in the import response form contained in Annex II, is adopted.

Article 3

The interim decision on the import of dustable powder pesticide formulations containing a combination of benomyl at or above 7 %, carbofuran at or above 10 % and thiram at or above 15 %, as set out in the import response form in Annex III, is also adopted.

Done at Brussels, 26 April 2004.

For the Commission
Margot WALLSTRÖM
Member of the Commission

[9] OJ L 224, 6.9.2003, p. 29.
[10] OJ L 123, 24.4.1998, p. 1.
[11] OJ 196, 16.8.1967, p. 1.
[12] OJ L 225, 21.8.2001, p. 1.

ANNEX I

Final import decision for the chemicals actinolite, amosite, anthophyllite and tremolite, together with an updated final import decision for crocidolite replacing a previous 1994 import decision

Interim Secretariat for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

UNEP

FORM FOR IMPORTING COUNTRY RESPONSE

IMPORTANT: See instructions before filling in the form

COUNTRY: European Community
(Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom)

SECTION 1. IDENTITY OF CHEMICAL		
1.1	Common name	Asbestos in the following forms: Actinolite, Anthophyllite, Amosite, Crocidolite and Tremolite
1.2	CAS numbers	Actinolite 77536-66-4 Anthophyllite 77536-67-5 Amosite 12172-73-5 Crocidolite 12001-28-4 Tremolite 77536-68-6
1.3	Type of formulation and content of active ingredient	

SECTION 2. THE IMPORT RESPONSE PROVIDED IN THIS FORM APPLIES TO THE FOLLOWING CATEGORY OR CATEGORIES

Pesticide

X Industrial

Severely hazardous pesticide formulation

SECTION 3. INDICATION REGARDING PREVIOUS RESPONSE, IF ANY	
3.1	X This is a first time import response for this chemical in the country.* * except for crocidolite, for which a final 1994 decision is updated.
3.2	This is a modification of a previous response.

	The previous response was a final decision.	Yes	No
	The previous response was an interim response.	Yes	No
	Date of issue of the previous response: _____		

SECTION 4. RESPONSE REGARDING FUTURE IMPORT
X **Final decision** ***(Fill in section 5, page 2)*** **OR** **Interim response** ***(Fill in section 6, page 3-4)***

SECTION 5. FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES			
5.1	X **No consent to import**		
	Is the import of the chemical from all sources simultaneously prohibited?	X Yes	No
	Is domestic production of the chemical for domestic use simultaneously prohibited?	X Yes	No
5.2	**Consent to import**		
5.3	**Consent to import only subject to specified conditions**		
	Are the conditions for import of the chemical the same for all sources of import?	Yes	No
	Are the conditions for domestic production of the chemical for domestic use the same as for all imports?	Yes	No
5.4	*NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURE UPON WHICH THE FINAL DECISION IS BASED*		
	Description of the national legislative or administrative measure: It is prohibited to place on the market and use all forms of asbestos fibres and products containing them. The chemicals were banned by a series of regulatory actions dating from 1983, the latest of which is Commission Directive 1999/77/EC (Official Journal of the European Communities(OJ) L207 of 6 August 1999, p. 18) adapting to technical progress for the sixth time Annex I to Council Directive 76/769/EEC relating to the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations. The complete name and address of the institution/authority responsible for issuing this national legislative or administrative measure: European Community and its Member States (see address in section 8).		
5.5	**Remarks** See under point 5.3 and 5.4		
	Has there ever been a request of registration of this chemical in the country?	Yes	No
	Is this chemical currently registered in the country?	Yes	No

	Is this chemical manufactured in the country?		Yes	No
	Is this chemical formulated in the country?		Yes	No
	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 6. INTERIM RESPONSE	
6.1	**No consent to import** Is the import of the chemical from all sources simultaneously prohibited? Yes No Is domestic production of the chemical for domestic use simultaneously prohibited? Yes No
6.2	**Consent to import**
6.3	**Consent to import only subject to specified conditions** The specified conditions are: Are the conditions for import of the chemical the same for all sources of import? Yes No Are the conditions for domestic production of the chemical for domestic use the same as for all imports? Yes No
6.4	*INDICATION OF ACTIVE CONSIDERATION IN ORDER TO REACH A FINAL DECISION*
	1.1. Is a final decision under active consideration? Yes No Approximate time needed before a final decision can be reached: The complete name and address of the responsible institution/authority actively considering a final decision:
6.5	*INFORMATION OR ASSISTANCE REQUESTED IN ORDER TO REACH A FINAL DECISION*

	The following additional information is requested from the Secretariat: The following additional information is requested from the country that notified the final regulatory action: The following assistance is requested from the Secretariat in evaluating the chemical:

6.6	**Remarks**			
	Has there ever been a request of registration of this chemical in the country?		Yes	No
	Is this chemical currently registered in the country?		Yes	No
	Is this chemical manufactured in the country?		Yes	No
	Is this chemical formulated in the country?		Yes	No
	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 7. RELEVANT ADDITIONAL INFORMATION

All forms of asbestos are classified under Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 196, 16.8.1967, p.1) as: Carc. Cat.1; R45 (Carcinogenic category 1; may cause cancer) – T; R 48/23 (Toxic; danger of serious damage to health by prolonged exposure through inhalation).

SECTION 8. DESIGNATED NATIONAL AUTHORITY

Institution	European Commission DG Environment

Address	Rue de la Loi 200 B-1049 Brussels Belgium

ANNEX II

Final import decision for the chemical DNOC

Interim Secretariat for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

UNEP

FORM FOR IMPORTING COUNTRY RESPONSE

IMPORTANT: See instructions before filling in the form

COUNTRY: European Community
(Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom)

SECTION 1. IDENTITY OF CHEMICAL		
1.1	Common name	DNOC and its salts (such as ammonium salt, potassium salt and sodium salt)
1.2	CAS number	DNOC 534-52-1 Ammonium salt 2980-64-5 Potassium salt 5787-96-2 Sodium salt 2312-76-7
1.3	Type of formulation and content of active ingredient	

SECTION 2. THE IMPORT RESPONSE PROVIDED IN THIS FORM APPLIES TO THE FOLLOWING CATEGORY OR CATEGORIES

X Pesticide

Industrial

Severely hazardous pesticide formulation

SECTION 3. INDICATION REGARDING PREVIOUS RESPONSE, IF ANY		
3.1	X This is a first time import response for this chemical in the country.	
3.2	This is a modification of a previous response. The previous response was a final decision.	Yes No

	The previous response was an interim response.	Yes No
	Date of issue of the previous response: _____	

SECTION 4. RESPONSE REGARDING FUTURE IMPORT
X **Final decision** ***(Fill in section 5, page 2)*** **OR Interim response** ***(Fill in section 6, page 3-4)***

SECTION 5. FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES		
5.1	X **No consent to import**	
	Is the import of the chemical from all sources simultaneously prohibited?	X Yes No
	Is domestic production of the chemical for domestic use simultaneously prohibited?	X Yes No
5.2	**Consent to import**	
5.3	**Consent to import only subject to specified conditions**	
	The specified conditions are:	
	Are the conditions for import of the chemical the same for all sources of import?	Yes No
	Are the conditions for domestic production of the chemical for domestic use the same as for all imports?	Yes No
5.4	*NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURE UPON WHICH THE FINAL DECISION IS BASED*	
	Description of the national legislative or administrative measure: It is prohibited to use or place on the market all plant protection products containing DNOC. DNOC was excluded from Annex I to Council Directive 91/414/EEC and thus authorisations for plant-protection products containing this active substance have been withdrawn. (Commission Decision 1999/164/EC of 17 February 1999, OJ L54, 2.3.1999, p.21). The complete name and address of the institution/authority responsible for issuing this national legislative or administrative measure: European Community and its Member States (see address in section 8).	

5.5	**Remarks**			
	Has there ever been a request of registration of this chemical in the country?		Yes	No
	Is this chemical currently registered in the country?		Yes	No
	Is this chemical manufactured in the country?		Yes	No
	Is this chemical formulated in the country?		Yes	No
	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 6. INTERIM RESPONSE	
6.1	**No consent to import**
	Is the import of the chemical from all sources simultaneously prohibited? Yes No
	Is domestic production of the chemical for domestic use simultaneously prohibited? Yes No
6.2	**Consent to import**
6.3	**Consent to import only subject to specified conditions**
	Are the conditions for import of the chemical the same for all sources of import? Yes No
	Are the conditions for domestic production of the chemical for domestic use the same as for all imports? Yes No
6.4	*INDICATION OF ACTIVE CONSIDERATION IN ORDER TO REACH A FINAL DECISION*
	Is a final decision under active consideration? Yes No
	The complete name and address of the responsible institution/authority actively considering a final decision:
6.5	*INFORMATION OR ASSISTANCE REQUESTED IN ORDER TO REACH A FINAL DECISION*

	The following additional information is requested from the Secretariat: The following additional information is requested from the country that notified the final regulatory action: The following assistance is requested from the Secretariat in evaluating the chemical:			
6.6	**Remarks**			
	Has there ever been a request of registration of this chemical in the country?		Yes	No
	Is this chemical currently registered in the country?		Yes	No
	Is this chemical manufactured in the country?		Yes	No
	Is this chemical formulated in the country?		Yes	No
	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 7. RELEVANT ADDITIONAL INFORMATION

DNOC is classified under Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 196, 16.8.1967, p.1) as Muta. Cat.3; R68 (Mutagenic category 3; possible risks of irreversible effects) – T+; R26/27/28 (Very toxic; very toxic by inhalation, contact with skin and if swallowed) – Xi; R38, R41(Irritant; irritating to skin; risk of serious damage to eyes) – R43(may cause sensitisation by skin contact) – R44 (risk of explosion if heated under confinement) – N; R50/53 (Dangerous to the environment; very toxic to aquatic organisms, may cause long-term effects in the aquatic environment).

SECTION 8. DESIGNATED NATIONAL AUTHORITY

Institution	European Commission Directorate-General for the Environment
Address	Rue de la Loi Wetstraat 200, B-1049 Brussels

ANNEX III

Interim import decision for dustable powder pesticide formulations containing a combination of benomyl at or above 7 %, carbofuran at or above 10 % and thiram at or above 15 %

Interim Secretariat for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

UNEP

FORM FOR IMPORTING COUNTRY RESPONSE

IMPORTANT: See instructions before filling in the form

COUNTRY: European Community
(Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom)

SECTION 1. IDENTITY OF CHEMICAL		
1.1	Common name	Dustable powder formulations containing a combination of: Benomyl at or above 7% Carbofuran at or above 10% Thiram at or above 15%
1.2	CAS numbers	Benomyl 17804-35-2 Carbofuran 1563-66-2 Thiram 137-26-8
1.3	Type of formulation and content of active ingredient	All dustable powder formulations containing a combination of: Benomyl at or above 7% Carbofuran at or above 10% Thiram at or above 15%

SECTION 2. THE IMPORT RESPONSE PROVIDED IN THIS FORM APPLIES TO THE FOLLOWING CATEGORY OR CATEGORIES

Pesticide

Industrial

X Severely hazardous pesticide formulation

SECTION 3. INDICATION REGARDING PREVIOUS RESPONSE, IF ANY			
3.1	X This is a first time import response for this chemical in the country.		
3.2	This is a modification of a previous response.		
	The previous response was a final decision.	Yes	No
	The previous response was an interim response.	Yes	No
	Date of issue of the previous response: _____		

SECTION 4. RESPONSE REGARDING FUTURE IMPORT
Final decision ***(Fill in section 5, page 2)*** **OR** X **Interim response** ***(Fill in section 6, page 3-4)***

SECTION 5. FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES			
5.1	**No consent to import**		
	Is the import of the chemical from all sources simultaneously prohibited?	Yes	No
	Is domestic production of the chemical for domestic use simultaneously prohibited?	Yes	No
5.2	**Consent to import**		
5.3	**Consent to import only subject to specified conditions**		
	Are the conditions for import of the chemical the same for all sources of import?	Yes	No
	Are the conditions for domestic production of the chemical for domestic use the same as for all imports?	Yes	No
5.4	*NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURE UPON WHICH THE FINAL DECISION IS BASED*		
	Description of the national legislative or administrative measure: The complete name and address of the institution/authority responsible for issuing this national legislative or administrative measure:		
5.5	**Remarks** See under point 5.3 and 5.4		
	Has there ever been a request of registration of this chemical in the country?	Yes	No
	Is this chemical currently registered in the country?	Yes	No
	Is this chemical manufactured in the country?	Yes	No
	Is this chemical formulated in the country?	Yes	No

	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 6. INTERIM RESPONSE			
6.1	X **No consent to import**		
	Is the import of the chemical from all sources simultaneously prohibited?	X Yes	No
	Is domestic production of the chemical for domestic use simultaneously prohibited?	X Yes	No
6.2	**Consent to import**		
6.3	**Consent to import only subject to specified conditions**		
	The specified conditions are:		
	Are the conditions for import of the chemical the same for all sources of import?	Yes	No
	Are the conditions for domestic production of the chemical for domestic use the same as for all imports?	Yes	No
6.4	*INDICATION OF ACTIVE CONSIDERATION IN ORDER TO REACH A FINAL DECISION*		

	1.2. Is a final decision under active consideration? X Yes No The following administrative action is being undertaken during the period a final decision is being considered: It is prohibited to use or place on the market all plant protection products containing benomyl. Benomyl was excluded from Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p.1) and thus authorisations for plant-protection products containing this active substance have been withdrawn. (Commission Decision 2002/928/EC of 26 November 2002, OJ L322, 27.11.2002, p.53). Carbofuran is included in the Community programme for evaluation of existing active substances under Directive 91/414/EEc; The evaluation is not expected to be completed before the end of 2004. In the meantime it is for Member States to take national decisions whether or not to authorise its use in their territories. Pursuant to Commission Directive 2003/81/EC of 5 September 2003 (OJ L224, 6.9.2003, p.29), thiram has been included in Annex I to Council Directive 91/414/EEC and is authorised as an active substance for plant protection products for use as a fungicide or repellent. Member States may therefore authorise products containing the substance for such purposes subject to certain conditions. Furthermore thiram has been identified and notified within the framework of Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 (OJ L 123, 24.4.1998, p.1) concerning the placing of biocidal products on the market. According to Article 16.1 of that Directive it can be used in biocidal products in accordance with Member States' legislation pending a final Community decision. Approximate time needed before a final decision can be reached: by 2009, when Community evaluation for biocidal use of thiram will be completed. The complete name and address of the responsible institution/authority actively considering a final decision: European Community and its Member States (see address in section 8)
6.5	*INFORMATION OR ASSISTANCE REQUESTED IN ORDER TO REACH A FINAL DECISION*

	The following additional information is requested from the Secretariat: The following additional information is requested from the country that notified the final regulatory action: The following assistance is requested from the Secretariat in evaluating the chemical:

6.6	**Remarks**			
	Has there ever been a request of registration of this chemical in the country?		Yes	No
	Is this chemical currently registered in the country?		Yes	No
	Is this chemical manufactured in the country?		Yes	No
	Is this chemical formulated in the country?		Yes	No
	If yes to either one of these last two questions:	Is this intended for domestic use?	Yes	No
		Is this intended for export?	Yes	No
	Other remarks			

SECTION 7. RELEVANT ADDITIONAL INFORMATION

In accordance with Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 196, 16.8.1967, p.1) the individual substances contained din the formulation are classified as follows:

Benomyl: Muta. Cat.3; R68 (Mutagenic category 3; possible risks of irreversible effects).

Carbofuran: T+; R26/28 (Very Toxic; very toxic by inhalation and if swallowed.) - N; R50-53 (Dangerous to the environment; Very Toxic to aquatic organisms, may cause long-term adverse effects in the aquatic environment).

Thiram: Muta. Cat.3; R68 (Mutagenic category 3; possible risks of irreversible effects) – Xn; R20/22 (Harmful; harmful by inhalation and if swallowed) – Xi; R36/37(Irritant; irritating to eyes and respiratory system) – R43 (may cause sensitisation by skin contact)

SECTION 8. DESIGNATED NATIONAL AUTHORITY	
Institution	European Commission DG Environment
Address	Rue de la Loi 200 B-1049 Brussels Belgium