

## II

(Acts whose publication is not obligatory)

## COUNCIL AND COMMISSION

### DECISION OF THE COUNCIL, AND OF THE COMMISSION AS REGARDS THE AGREEMENT ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION,

of 4 April 2002

on the conclusion of seven Agreements with the Swiss Confederation

(2002/309/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3), and Article 300(4) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second subparagraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament <sup>(1)</sup>,

Having regard to the approval of the Council,

Whereas:

(1) In order to pursue the privileged links between the European Union and the Swiss Confederation and their common desire to widen and strengthen their relations, the following agreements were signed on 21 June 1999 and should be approved:

- Agreement on the Free Movement of Persons between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part,
- Agreement between the European Community and the Swiss Confederation on Air Transport,

— Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road,

— Agreement between the European Community and the Swiss Confederation on Trade in Agricultural Products,

— Agreement between the European Community and the Swiss Confederation on Mutual Recognition in Relation to Conformity Assessment,

— Agreement between the European Community and the Swiss Confederation on Certain Aspects of Government Procurement,

— Agreement on Scientific and Technological Cooperation between the European Communities and the Swiss Confederation.

(2) The seven agreements are intimately linked to one another by the requirement that they are to come into force at the same time and that they are to cease to apply at the same time, six months after the receipt of a non-renewal or denunciation notice concerning any one of them.

(3) As regards the Agreement on the Free Movement of Persons, the undertakings contained in the Agreement that fall within the scope of Part Three, Title IV of the Treaty establishing the European Community are not binding on the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland as obligations under Community law but as obligations arising from an undertaking between those Member States and the Swiss Confederation.

<sup>(1)</sup> OJ C 41, 7.2.2001, p. 25.

- (4) As regards the Agreement on Trade in Agricultural Products, where appropriate, measures necessary for the implementation of the first indent of Article 5(3) of this Decision may be adopted in accordance with the procedure laid down in Article 5(4). These measures should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (5) Certain tasks for implementation have been attributed to the Joint Committees established under the Agreements, including the power to amend certain aspects of the Annexes thereto. The appropriate internal procedures should be established to ensure the proper functioning of the Agreements and, in certain cases, to empower the Commission to agree to certain technical amendments to the Agreements or to take certain decisions for their implementation,

HAVE DECIDED AS FOLLOWS:

#### *Article 1*

1. The following six agreements are hereby approved on behalf of the European Community:

- Agreement on the Free Movement of Persons between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part,
- Agreement between the European Community and the Swiss Confederation on Air Transport,
- Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road,
- Agreement between the European Community and the Swiss Confederation on Trade in Agricultural Products,
- Agreement between the European Community and the Swiss Confederation on Mutual Recognition in Relation to Conformity Assessment,
- Agreement between the European Community and the Swiss Confederation on Certain Aspects of Government Procurement.

The following agreement is hereby approved on behalf of the European Community and the European Atomic Energy Community:

- Agreement on Scientific and Technological Cooperation between the European Communities and the Swiss Confederation.

The texts of the Agreements are attached to this Decision.

2. According to their terms, the seven agreements shall come into force at the same time and shall cease to apply at the same time, six months after the receipt of a non-renewal or denunciation notice concerning any one of them.

#### *Article 2*

As regards the Agreement on the Free Movement of Persons, the Community shall be represented on the Joint Committee set up under Article 14 of the Agreement by a representative of the Commission. The position to be taken by the Community in the course of the implementation of the Agreement as regards decisions or recommendations of the Joint Committee shall be laid down by the Council on a proposal from the Commission, in accordance with the corresponding provisions of the Treaty establishing the European Community.

#### *Article 3*

1. As regards the Agreement on Air Transport, the Community shall be represented in the Joint Committee set up under Article 21 of the Agreement by the Commission assisted by representatives of the Member States.

2. The position to be taken by the Community as regards decisions of the Joint Committee which simply extend acts of Community legislation to Switzerland, subject to any technical adjustment needed, shall be adopted by the Commission.

3. For other Joint Committee decisions, the Community's position shall be adopted by the Council, acting by a qualified majority, on a proposal from the Commission.

#### *Article 4*

1. As regards the Agreement on the Carriage of Goods and Passengers by Rail and Road, the Community shall be represented in the Joint Committee set up under Article 51 of the Agreement by the Commission assisted by representatives of the Member States. The position to be taken by the Community as regards decisions of the Joint Committee shall be adopted:

- by the Council, acting by qualified majority on a proposal from the Commission, for the matters contained in Articles 42, 45, 46, 47 and 54 of the Agreement,
- for all other matters, by the Commission in consultation with the Committee established under the first subparagraph of Article 4 of Decision 92/578/EEC <sup>(2)</sup>.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ L 373, 21.12.1992, p. 26.

## Article 5

1. As regards the Agreement on Trade in Agricultural Products, the Commission, assisted by Member States' representatives, shall represent the Community in the Joint Committee for Agriculture referred to in Article 6(1) of the Agreement and in the Joint Veterinary Committee referred to in Article 19(1) of Annex 11 to the Agreement.

2. The Community position within the Joint Committee for Agriculture and the Joint Veterinary Committee shall be adopted by the Council on a proposal from the Commission, in accordance with the corresponding provisions of the Treaty establishing the European Community.

However, the Community position on matters subject to decisions of the Joint Committee for Agriculture as referred to in Article 6(3) of the Agreement shall be adopted by the Commission:

- in respect of matters relating to Annex 4 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 18 of Directive 2000/29/EC<sup>(1)</sup>,
- in respect of matters relating to Annex 5 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 23 of Directive 70/524/EEC<sup>(2)</sup>,
- in respect of matters relating to Annex 6 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 21 of Directive 66/400/EEC<sup>(3)</sup> or the corresponding provisions of the other Directives in the seeds sector,
- in respect of matters relating to Annex 7 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 75 of Regulation (EC) No 1493/1999<sup>(4)</sup>,

- in respect of matters relating to Annex 8 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 14 or Article 15 of Regulation (EEC) No 1576/89<sup>(5)</sup> or in Article 13 or Article 14 of Regulation (EEC) No 1601/91<sup>(6)</sup>,
- in respect of matters relating to Annex 9 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 2092/91<sup>(7)</sup>,
- in respect of matters relating to Annex 10 to the Agreement and the Appendices thereto in accordance with the procedure laid down in Article 46 of Regulation (EC) No 2200/96<sup>(8)</sup>.

3. Without prejudice to paragraph 6, the Commission shall adopt the measures necessary for the implementation of the Agreement as regards:

- the implementation of the tariff concessions set out in Annex 2 and Annex 3 to the Agreement as well as amendments and technical adaptations made necessary by amendments to the Combined Nomenclature and TARIC codes, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92<sup>(9)</sup> or the corresponding provisions of the other Regulations on the common organisation of the markets, or in accordance with the procedure laid down in paragraph 2,
- the implementation of Annex 4, in accordance with the procedure laid down in Article 18 of Directive 2000/29/EC,
- the implementation of Annex 5, in accordance with the procedure laid down in Article 23 of Directive 70/524/EEC,
- the implementation of Annex 6, in accordance with the procedure laid down in Article 21 of Directive 66/400/EEC or the corresponding provisions of other Directives in the seeds sector,
- the implementation of Title III of Annex 7, in accordance with the procedure laid down in Article 75 of Regulation (EC) No 1493/1999,

(1) OJ L 169, 10.7.2000, p. 1. Directive as amended by Commission Directive 2001/33/EC (OJ L 127, 9.5.2001, p. 42).

(2) OJ L 270, 14.12.1970, p. 1. Directive as last amended by Commission Regulation (EC) No 2205/2001 (OJ L 297, 15.11.2001, p. 3).

(3) OJ L 125, 11.7.1966, p. 2290/66. Directive as last amended by Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

(4) OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Council Regulation (EC) No 2585/2001 (OJ L 345, 29.11.2001, p. 10).

(5) OJ L 160, 12.6.1989, p. 1. Regulation as last amended by Council Regulation (EC) No 3378/94 (OJ L 366, 31.12.1994, p. 1).

(6) OJ L 149, 14.6.1991, p. 1. Regulation as last amended by Council Regulation (EC) No 2061/96 (OJ L 277, 30.10.1996, p. 1).

(7) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 2491/2001 (OJ L 337, 20.12.2001, p. 9).

(8) OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 911/2001 (OJ L 129, 11.5.2001, p. 3).

(9) OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Council Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).

- the implementation of Article 14 of Annex 8, in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 1576/89 or in Article 13 of Regulation (EEC) No 1601/91,
- the implementation of Annex 9, in accordance with the procedure laid down in Article 14 of Regulation (EEC) 2092/91,
- the implementation of Annex 10, in accordance with the procedure laid down in Article 46 of Regulation (EC) No 2200/96,
- the implementation of Annex 11, in accordance with Article 30 of Directive 72/462/EEC<sup>(1)</sup>.

4. Where appropriate, the necessary measures referred to in the first indent of paragraph 3 may be adopted in accordance with the procedures set out hereafter.

The Commission shall be assisted by the Customs Code Committee set up by Article 248a of Regulation (EEC) No 2913/92<sup>(2)</sup>.

Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

5. The Customs Code Committee may examine any question concerning the application of tariff quotas which is raised by its chairman either at the latter's initiative or at the request of a Member State.

6. The Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures in accordance with Article 10 of the Agreement, Article 29 of Annex 7, Article 16 of Annex 8, Article 9 of Annex 9 and Article 5 of Annex 10 thereto. The Council and the Member States shall be notified of such decisions. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request. Any Member State may refer the Commission's decision to the Council within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, take a different decision within a period of 30 days of the day on which the Commission's decision was referred to it.

#### Article 6

1. As regards the Agreement on Mutual Recognition in Relation to Conformity Assessment, the Community shall be represented on the Joint Committee set up under Article 10 of the Agreement, referred to hereafter as the 'Committee', by the Commission assisted by the special committee designated by the Council. The Commission shall proceed, after consultation with this special committee, to the appointments, notifications, exchange of information and requests for verification referred to in Articles 6(3), 7, 8(1), 10(4)(e) and 12 of the Agreement.

2. The position to be taken by the Community in the Committee shall be determined by the Commission, following consultation of the special committee referred to in paragraph 1, with regard to:

- (a) application of Article 1(3) to the chapters of Annex 1;
- (b) adoption of the rules of procedure, in accordance with Article 10(2), and of the verification procedures provided for in Article 10(4)(c) and (d) of the Agreement;
- (c) verification of the compliance of conformity assessment bodies and related decisions, in accordance with Article 8 and Article 11(c) of the Agreement;
- (d) amendments of Sections I to V of all Chapters in Annex I, in accordance with Article 10(4)(a), (b) and (e), and Article 11 of the Agreement;
- (e) amendments of the annexes, in accordance with Article 10(5) of the Agreement, and
- (f) the dispute settlement mechanism provided for in Article 14 of the Agreement.

3. In all other cases the position to be taken by the Community in the Committee shall be determined by the Council, acting by qualified majority on a proposal from the Commission.

#### Article 7

1. As regards the Agreement on Certain Aspects of Government Procurement, the Community shall be represented in the Joint Committee set up under Article 11 of the Agreement by the Commission assisted by representatives of the Member States.

(1) OJ L 302, 31.12.1972, p. 28. Directive as last amended by Council Regulation (EC) No 1452/2001 (OJ L 198, 21.7.2001, p. 11).

(2) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

2. The Commission is authorised to approve, on behalf of the Community, modifications to Annexes I, II, III, IV, VI and VII to the Agreement. The Commission shall be assisted in this task by a special committee appointed by the Council. The authorisation referred to in the first sentence shall be limited, as far as Annex I is concerned, to the modifications that will be necessary if the procedures laid down in Article 8 of Directive 93/38/EEC were to be applied, as far as Annexes II, III and IV are concerned, to the modifications that will be necessary if similar procedures were to be applied to the sectors concerned by these annexes and, as far as Annexes VI and VII are concerned, to the results of future negotiations to be conducted in the framework of the 1996 Government Procurement Agreement.

3. In all other cases, the position to be taken by the Community as regards decisions of the Joint Committee shall be laid down by the Council, on a proposal from the

Commission, in accordance with the corresponding provisions of the Treaty establishing the European Community.

*Article 8*

The acts or instruments of approval, provided for in each of the agreements, shall be deposited by the President of the Council on behalf of the European Community and also, as regards the Agreement on Scientific and Technological Cooperation, by the President of the Commission on behalf of the European Atomic Energy Community.

Done at Brussels, 4 April 2002.

*For the Council*

*The President*

A. ACEBES PANIAGUA

*For the Commission*

*The President*

R. PRODI

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