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COMMISSION

COMMISSION DECISION

of 26 February 1996

amending Council Decision 79/542/EEC and Commission Decisions 92/260/EEC, 93/195/EEC, 93/196/EEC and 93/197/EEC

(Text with EEA relevance)

(96/279/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and imports from third countries of *equidae* ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Articles 12, 13, 14, 15, 16, 18 and Article 19 (i) and (ii) thereof;

Whereas by Council Decision 79/542/EEC ⁽²⁾, as last amended by Commission Decision 96/132/EC ⁽³⁾, a list of third countries from which Member States authorize among others imports of *equidae* has been established;

Whereas Commission Decision 92/160/EEC ⁽⁴⁾, as last amended by Decision 95/536/EC ⁽⁵⁾, established the regionalization of certain third countries for imports of *equidae*;

Whereas the health conditions and veterinary certification for the temporary admission of registered horses, for the

imports of *equidae* for slaughter and for imports of registered *equidae* and *equidae* for breeding and production are laid down respectively in Commission Decisions 92/260/EEC ⁽⁶⁾, as last amended by Decision 96/81/EC ⁽⁷⁾, 93/196/EEC ⁽⁸⁾ and Commission 93/197/EEC ⁽⁹⁾, both as last amended by Decision 96/82/EC ⁽¹⁰⁾, and for the re-entry of registered horses after temporary export in Decision 93/195/EEC ⁽¹¹⁾, as last amended by Commission Decision 95/323/EC ⁽¹²⁾;

Whereas changes in the sanitary situation of third countries have been taken into account by amending the aforementioned Decisions; whereas, however, sometimes it occurred that these amendments were incomplete and omissions were made, and that it is necessary to correct this situation and to amend these Decisions accordingly;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

⁽⁶⁾ OJ No L 130, 15. 5. 1992, p. 67.

⁽⁷⁾ OJ No L 19, 25. 1. 1996, p. 52.

⁽⁸⁾ OJ No L 86, 6. 4. 1993 p. 7.

⁽⁹⁾ OJ No L 86, 6. 4. 1993, p. 16.

⁽¹⁰⁾ OJ No L 19, 25. 1. 1996, p. 56.

⁽¹¹⁾ OJ No L 86, 6. 4. 1993, p. 1.

⁽¹²⁾ OJ No L 190, 11. 8. 1995, p. 11.

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 42.

⁽²⁾ OJ No L 146, 14. 6. 1979, p. 15.

⁽³⁾ OJ No L 30, 8. 2. 1996, p. 52.

⁽⁴⁾ OJ No L 71, 18. 3. 1992, p. 27.

⁽⁵⁾ OJ No L 304, 16.12. 1995, p. 49.

HAS ADOPTED THIS DECISION:

Article 1

Article 1 (3) (c) of Decision 79/542/EEC is deleted.

Article 2

Decision 92/260/EEC is amended as follows:

1. in Annex I the list of countries in Group B is replaced by:

'Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia ⁽¹⁾, Slovenia, Slovak Republic, Ukraine';

2. in Annex I the list of countries in Group D is replaced by:

'Argentina, Barbados, Bermuda, Bolivia, Brazil ⁽¹⁾, Chile, Cuba, Jamaica, Mexico, Paraguay, Uruguay';

3. in Annex II the title of the certificate B is replaced by:

'HEALTH CERTIFICATE

for the temporary admission of registered horses into Community territory from Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia ⁽¹⁾, Slovenia, Slovak Republic, and Ukraine for a period of less than 90 days';

4. in Annex II the third indent of paragraph (d) of Chapter III of certificates A, B, C, D and E is replaced by:

'— Australia, Bulgaria, Belarus, Canada, Switzerland, Cyprus, Czech Republic, Estonia, Greenland, Hong Kong, Croatia, Hungary, Iceland, Japan, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, Macau, Malaysia (peninsula), Norway, New Zealand, Poland, Romania, Russia ⁽¹⁾, Singapore, Slovenia, Slovak Republic, Ukraine, United States of America'.

Article 3

Decision 93/195/EEC is amended as follows:

1. in Annex I the list of countries in Group A is replaced by:

'Switzerland, Greenland, Iceland';

2. in Annex I the list of countries in Group B is replaced by:

'Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia ⁽¹⁾, Slovenia, Slovak Republic, Ukraine';

3. In Annex II the list of countries in Group A in the title of the health certificate is replaced by:

'Switzerland, Greenland, Iceland';

4. In Annex II the list of countries in Group B in the title of the health certificate is replaced by:

'Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia ⁽¹⁾, Slovenia, Slovak Republic, Ukraine'.

Article 4

Decision 93/196/EEC is amended as follows:

1. in Annex I the list of countries in footnote 5 is replaced by:

'Australia, Canada, Switzerland, Greenland, Iceland, New Zealand and United States of America';

2. in Annex II footnote 3 the list of countries in Group A is replaced by:

'Switzerland, Greenland, Iceland';

3. in Annex II footnote 3 the list of countries in Group B is replaced by:

'Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia ⁽¹⁾, Slovenia, Slovak Republic, Ukraine'.

Article 5

Decision 93/197/EEC is amended as follows:

1. in Annex I the list of countries in Group A is replaced by:

'Switzerland, Greenland, Iceland';

2. in Annex I the list of countries in Group B is replaced by:

'Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia (¹), Slovenia, Slovak Republic, Ukraine';

3. in Annex II the title of the certificate A is replaced by:

'HEALTH CERTIFICATE

for imports into Community territory of registered *equidae* and *equidae* for breeding and production from Switzerland, Greenland and Iceland';

4. in Annex II the title of the certificate B is replaced by:

'HEALTH CERTIFICATE

for imports into Community territory of registered *equidae* and *equidae* for breeding and production from Australia, Bulgaria, Belarus, Bosnia-Herzegovina, Cyprus, Czech Republic, Estonia, Croatia, Hungary, Lithuania, Latvia, Former Yugoslav Republic of Macedonia, New Zealand, Poland, Romania, Russia (¹), Slovenia, Slovak Republic, Ukraine'.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 26 February 1996.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION RECOMMENDATION
of 3 April 1996
concerning the definition of small and medium-sized enterprises

(Text with EEA relevance)

(96/280/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155, second indent, thereof,

Whereas the implementation of the Integrated Programme in Favour of Small and Medium-Sized Enterprises (SMEs) and the Craft Sector (hereinafter referred to as 'the Integrated Programme')⁽¹⁾, in accordance with the *White Paper on Growth, Competitiveness and Employment*, requires the establishment of a coherent, visible and effective framework within which the enterprise policy in favour of SMEs can take its place;

Whereas, well before the implementation of the Integrated Programme, various Community policies were targeted at SMEs, each policy using different criteria to define them; whereas a number of Community policies have developed gradually with no joint approach or overall consideration of what, objectively, constitutes an SME; the result being a diversity of criteria used to define an SME and thus, a multiplicity of definitions currently in use at Community level in addition to the definitions used by the European Investment Bank (EIB) and the European Investment Fund (EIF) together with a rather wide range of definitions in the Member States;

Whereas many Member States have no general definition and operate *ad hoc* with rules based on local practice or which apply to particular sectors; whereas others adhere rigidly to the definition contained in the Community guidelines on State aid to SMEs⁽²⁾;

Whereas the existence of different definitions at Community level and at national level can create inconsistencies and can also distort competition between enterprises; whereas the Integrated Programme aims at a more forceful coordination between, on the one hand, the

different Community initiatives in favour of SMEs and, on the other hand, between these and the initiatives which exist at national level; whereas these objectives cannot be realized successfully unless the question of the definition of SMEs is clarified;

Whereas the Commission's Report to the European Council meeting in Madrid on 15 and 16 December 1995 has underlined that a refocused effort in favour of SMEs is required in order to create more jobs across all sectors of the economy;

Whereas the 'Research' Council of 29 September 1994 agreed that preferential treatment for SMEs should be accompanied by a clearer definition of what was meant by a small or medium-sized enterprise; therefore it has requested the Commission to re-examine the criteria to be selected for defining SMEs;

Whereas, in a first Report presented in 1992 at the request of the 'Industry' Council held on 28 May 1990, the Commission had already proposed limiting the proliferation of definitions in use at Community level; specifically, it favoured the adoption of the following four criteria: number of persons employed, turnover, balance-sheet total and independence, while proposing thresholds of 50 and 250 employees for small and for medium-sized enterprises respectively;

Whereas this definition has been adopted in the Community guidelines on State aid for SMEs and in all the other guidelines or communications concerning State aid which have been adopted or revised since 1992 (it applies in particular to the Commission Communication to the Member States on the accelerated clearance of aid schemes for SMEs and of amendments of existing schemes⁽³⁾, the guidelines on State aid for environmental protection⁽⁴⁾ and the guidelines on State aids for rescuing and restructuring firms in difficulty⁽⁵⁾);

⁽¹⁾ COM(94) 207 final.

⁽²⁾ OJ No C 213, 19. 8. 1992, p. 2.

⁽³⁾ OJ No C 213, 19. 8. 1992, p. 10.

⁽⁴⁾ OJ No C 72, 10. 3. 1994, p. 3, footnote 16.

⁽⁵⁾ OJ No C 368, 23.12. 1994, p. 12.

Whereas other measures adopt this definition wholly or in part, notably the Fourth Council Directive (78/660/EEC) of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies ⁽¹⁾, as last amended by Directive 94/8/EC ⁽²⁾, Council Decision 94/217/EEC of 19 April 1994 on the provision of Community interest subsidies on loans for small and medium-sized enterprises extended by the European Investment Bank under its temporary lending facility ⁽³⁾, and the Commission's Communication ⁽⁴⁾ on the Community SME Initiative under the Structural Funds;

Whereas, however, full convergence has not yet been achieved; some programmes still fix very varied thresholds or disregard certain criteria, such as independence;

Whereas it is appropriate that this convergence continues and is completed on the basis of the rules set out in the Community guidelines on State aids for SMEs, and that the Commission should apply, in all the policies it administers, the same criteria and the same thresholds which it requires Member States to observe;

Whereas in a single market without internal frontiers, the treatment of enterprises must be based on a set of common rules, particularly as regards State support — national or Community;

Whereas this approach is all the more necessary in view of the extensive interaction between national and Community measures assisting SMEs, for example as regards Structural Funds and research; it means that situations in which the Community targets its action on a certain category of SMEs and the Member States on another must be avoided;

Whereas application of the same definition by the Commission, the Member States, the EIB and the EIF would reinforce the consistency and effectiveness of policies targeting SMEs and would, therefore, limit the risk of distortion of competition; whereas, moreover, many programmes intended for SMEs are co-financed by the Member States and the European Community and, in some cases, by the EIB and the EIF;

Whereas before proposing thresholds for defining SMEs, it should be pointed out that this attempt to rationalize

and lay down a reference standard does not mean that enterprises which exceed these thresholds do not deserve State or Community attention; however it would be more appropriate to solve this problem through specific measures in the framework of the relevant programmes, in particular international cooperation programmes, rather than by adopting or maintaining a different SME definition;

Whereas the criterion of number of persons employed is undoubtedly one of the most important and must be regarded as imperative but that introducing a financial criterion is a necessary complement in order to grasp the real importance and performance of an enterprise and its position compared to its competitors;

Whereas, however, it would not be desirable to adopt turnover as the sole financial criterion because enterprise in the trade and distribution sector have by their nature higher turnover figures than those in the manufacturing sector, thus the turnover criterion should be combined with that of the balance sheet total, a criterion which represents the overall wealth of a business, with the possibility of one of these two financial criteria being exceeded;

Whereas independence is also a basic criterion in that an SME belonging to a large group has access to funds and assistance not available to competitors of equal size; whereas there is also a need to rule out legal entities composed of SMEs which form a grouping whose actual economic power is greater than that of an SME;

Whereas, in respect of the independence criterion, the Member States, the EIB and the EIF should ensure that the definition is not circumvented by those enterprises which, whilst formally meeting this criterion, are in fact controlled by one large enterprise or jointly by several large enterprises;

Whereas stakes held by public investment corporations or venture capital companies do not normally change the character of a firm from that of an SME, and may therefore be disregarded; the same applies to stakes held by institutional investors, who usually maintain an 'arm's-length' relationship with the company in which they have invested;

Whereas a solution must be found to the problem of joint stock enterprises which, although they are SMEs, cannot state with any accuracy the composition of their

⁽¹⁾ OJ No L 222, 14. 8. 1978, p. 11.

⁽²⁾ OJ No L 82, 25. 3. 1994, p. 33.

⁽³⁾ OJ No L 107, 28. 4. 1994 p. 57; see Commission Report on this matter (COM(94) 434 final of 19 October 1994).

⁽⁴⁾ OJ No C 180, 1. 7. 1994, p. 10.

share ownership due to the way in which their capital is dispersed and the anonymity of their shareholders and cannot therefore know whether they meet the condition of independence;

Whereas, therefore, fairly strict criteria must be laid down for defining SMEs if the measures aimed at them are genuinely to benefit the enterprises for which size represents a handicap;

Whereas the threshold of 500 employees is not truly selective, since it encompasses almost all enterprises (99,9% of the 14 million enterprises) and almost three-quarters of the European economy in terms of employment and turnover; furthermore, an enterprise with 500 employees has access to human, financial and technical resources which fall well outside the framework of the medium-sized enterprise, namely ownership and management in the same hands, often family-owned, and lack of a dominant position on the market;

Whereas, not only do enterprises between 250 and 500 employees often have very strong market positions but they also possess very solid management structures in the fields of production, sales, marketing, research and personnel management, which clearly distinguish them from medium-sized enterprises with up to 250 employees; whereas in the latter group, such structures are far more fragile; whereas the threshold of 250 persons employed is therefore a more meaningful reflection of the reality of an SME;

Whereas this threshold of 250 employees is already the most prevalent among the definitions used at Community level and whereas it has been taken up in the legislation of many Member States as a result of the Community guidelines on State aid for SMEs; whereas the EIB had also decided to use this definition for a substantial part of the loans granted in the framework of the 'SME facility' provided for in Decision 94/217/EEC;

Whereas, according to Eurostat figures, the turnover of an enterprise with 250 employees does not exceed ECU 40 million (1994 figures); whereas it would therefore appear reasonable to apply a threshold for turnover of ECU 40 million; whereas recent calculations show that the average ratio between turnover and balance sheet total is 1:5 for SMEs and small enterprises⁽¹⁾, whereas, as a result, the threshold for the balance-sheet total should be fixed at ECU 27 million;

Whereas, however, a distinction must be drawn, within SMEs, between medium-sized enterprises, small enterprises and micro-enterprises; whereas the latter

should not be confused with craft enterprises, which will continue to be defined at national level due to their specific characteristics;

Whereas thresholds for small enterprises must be fixed in the same way, meaning thresholds of ECU 7 million for turnover, and ECU 5 million for balance-sheet total;

Whereas the thresholds chosen do not necessarily reflect the average SME or small enterprise but represent ceilings designed to allow all enterprises having the characteristics of an SME or a small enterprise to be included within one or other of the categories;

Whereas the turnover and balance-sheet total thresholds laid down for defining SMEs should be revised as the need arises to take account of changing economic circumstances such as price levels and increases in the productivity of enterprises;

Whereas the Community guidelines on State aids for SMEs will be aligned by replacing the currently used definitions with a reference to those set out in this Recommendation;

Whereas it is necessary to provide that when the Fourth Council Directive 78/660/EEC, which affords Member States the right to exempt SMEs from certain obligations relating to the publication of their accounts, is next amended, the Commission will propose that the existing definition be replaced by a reference to this Recommendation;

Whereas it would also be desirable for evaluations made of measures in favour of SMEs that the Commission, the Member States, the EIB and the EIF state exactly which enterprises benefit from them, distinguishing various categories of SME according to size, as greater knowledge of the recipients makes it possible to adjust and better target the measures proposed for SMEs, and consequently renders them more effective;

Whereas, given that a certain degree of flexibility must be permitted to the Member States, the EIB and the EIF to fix thresholds lower than the Community thresholds if they wish to direct their measures towards a specific category of SME, these thresholds represent only maximum limits;

Whereas it is also possible for the Member States, the EIB and the EIF, for reasons of administrative simplification, to retain only one criterion, notably that of the number of employees, for the implementation of some of their policies. However, this flexibility does not apply to the various State aid frameworks where the financial criteria must also be respected;

⁽¹⁾ Source: 'BACH' (harmonized accounts) database.

Whereas this Recommendation concerns only the definition of SMEs used in Community policies applied within the Community and the European Economic Area,

Investment Bank and the European Investment Fund may, in certain cases, choose to fix lower thresholds. In implementing certain of their policies, they may also choose to apply only the criterion of number of employees, except in fields to which the various rules on State aid apply.

MAKES THIS RECOMMENDATION:

Article 1

Member States, the European Investment Bank and the European Investment Fund are invited:

- to comply with the provisions set out in Article 1 of the Annex for their programmes directed towards 'SMEs', 'medium-sized enterprises', 'small enterprises' or 'micro-enterprises',
- to comply with the ceilings chosen for the turnover and balance-sheet total where they are amended by the Commission in accordance with Article 2 of the Annex,
- to take the necessary steps with a view to using the size classes set out in Article 3 (2) of the Annex, especially where the monitoring of Community financial instruments is concerned.

Article 2

The thresholds specified in Article 1 of the Annex are to be regarded as ceilings. Member States, the European

Article 3

To enable the Commission to evaluate what progress has been made, Member States, the European Investment Bank and the European Investment Fund are invited to inform the Commission, before 31 December 1977, of the measures they have taken to comply with this Recommendation.

Article 4

This Recommendation concerns the definition of SMEs in Community policies applied within the Community and the European Economic Area and is addressed to the Member States, the European Investment Bank and the European Investment Fund.

Done at Brussels, 3 April 1996.

For the Commission

Christos PAPOUTSIS

Member of the Commission

ANNEX

DEFINITION OF SMALL AND MEDIUM-SIZED ENTERPRISES ADOPTED BY THE COMMISSION

Article 1

1. Small and medium-sized enterprises, hereinafter referred to as 'SMEs', are defined as enterprises which:

- have fewer than 250 employees, and
- have either,
 - an annual turnover not exceeding ECU 40 million, or
 - an annual balance-sheet total not exceeding ECU 27 million,
- conform to the criterion of independence as defined in paragraph 3.

2. Where it is necessary to distinguish between small and medium-sized enterprises, the 'small enterprise' is defined as an enterprise which:

- has fewer than 50 employees and
- has either,
 - an annual turnover not exceeding ECU 7 million, or
 - an annual balance-sheet total not exceeding ECU 5 million,
- conforms to the criterion of independence as defined in paragraph 3.

3. Independent enterprises are those which are not owned as to 25 % or more of the capital or the voting rights by one enterprise, or jointly by several enterprises, falling outside the definition of an SME or a small enterprise, whichever may apply. This threshold may be exceeded in the following two cases:

- if the enterprise is held by public investment corporations, venture capital companies or institutional investors, provided no control is exercised either individually or jointly,
- if the capital is spread in such a way that it is not possible to determine by whom it is held and if the enterprise declares that it can legitimately presume that it is not owned as to 25 % or more by one enterprise, or jointly by several enterprises, falling outside the definitions of an SME or a small enterprise, whichever may apply.

4. In calculating the thresholds referred to in paragraphs 1 and 2, it is therefore necessary to cumulate the relevant figures for the beneficiary enterprise and for all the enterprises which it directly or indirectly controls through possession of 25 % or more of the capital or of the voting rights.

5. Where it is necessary to distinguish micro-enterprises from other SMEs, these are defined as enterprises having fewer than 10 employees.

6. Where, at the final balance sheet date, an enterprise exceeds or falls below the employee thresholds or financial ceilings, this is to result in its acquiring or losing the status of 'SME', 'medium-sized enterprise', 'small enterprise' or 'micro-enterprise' only if the phenomenon is repeated over two consecutive financial years.

7. The number of persons employed corresponds to the number of annual working units (AWU), that is to say, the number of full-time workers employed during one year with part-time and seasonal workers being fractions of AWU. The reference year to be considered is that of the last approved accounting period.

8. The turnover and balance sheet total thresholds are those of the last approved 12-month accounting period. In the case of newly-established enterprises whose accounts have not yet been approved, the thresholds to apply shall be derived from a reliable estimate made in the course of the financial year.

Article 2

The Commission will amend the ceilings chosen for the turnover and balance-sheet total as the need arises and normally every four years from the adoption of this Recommendation, to take account of changing economic circumstances in the Community.

Article 3

1. The Commission undertakes to adopt the appropriate measures to ensure that the definition of SMEs, as set out in Article 1, applies to all programmes managed by it in which the terms 'SME', 'medium-sized enterprise', 'small enterprise' or 'micro-enterprise' are mentioned.

2. The Commission undertakes to adopt the appropriate measures to adapt the statistics that it produces in line with the following size-classes:

- 0 employees,
- 1 to 9 employees,
- 10 to 49 employees,
- 50 to 249 employees,
- 250 to 499 employees,
- 500 employees plus.

3. Current Community programmes defining SMEs with criteria other than those mentioned in Article 1 will continue,

during a transitional period, to be implemented to the benefit of the enterprises which were considered SMEs when these programmes were adopted. Any modification of the SME definition within these programmes can be made only by adopting the definition contained herein and by replacing the divergent definition with a reference to this Recommendation. This transitional period should in principle end at the latest on 31 December 1997. However, legally binding commitments entered into by the Commission on the basis of these programmes will remain unaffected.

4. When the Fourth Council Directive 78/660/EEC is amended, the Commission will propose that the existing criteria for defining SMEs be replaced by a reference to the definition contained in this Recommendation.

5. Any provisions adopted by the Commission which mention the terms 'SME', 'medium-sized enterprise', 'small enterprise' or 'micro-enterprise', or any other such term, will refer to the definition contained in this Recommendation.

COMMISSION DECISION

of 3 April 1996

concerning the placing on the market of genetically modified soya beans (*Glycine max* L.) with increased tolerance to the herbicide glyphosate, pursuant to Council Directive 90/220/EEC

(Text with EEA relevance)

(96/281/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms ⁽¹⁾, as amended by Commission Directive 94/15/EC ⁽²⁾, and in particular Article 13 thereof,

Whereas, in accordance with Articles 10 to 18 of Directive 90/220/EEC, there is a Community procedure enabling the competent authority of a Member State to give consent to the placing on the market of products consisting of genetically modified organisms;

Whereas, a notification concerning the placing on the market of such a product has been submitted to the competent authorities of a Member State (United Kingdom);

Whereas, the competent authorities of the United Kingdom have subsequently forwarded the dossier thereon to the Commission with a favourable opinion;

Whereas, the competent authorities of other Member States have raised objections to the said dossier;

Whereas, therefore, in accordance with Article 13 (3) of Directive 90/220/EEC, the Commission is required to take a decision in accordance with the procedure laid down in Article 21 of that Directive;

Whereas the product has been notified for placing on the market for handling in the environment during import and before and during storage and processing it to non-viable soya bean fractions, and not for sowing;

Whereas, the Commission, having examined each of the objections raised in light of the scope of Directive 90/220/EEC and the information submitted in the dossier, has reached the following conclusions:

- there is no reason to believe that there will be any adverse effects on human health and the environment from the introduction into soya bean of the genes coding for glyphosate tolerance and the chloroplast transit peptide;
- there are no safety reasons which justify the segregation of the product from other soya beans;
- there are no safety reasons for labelling which mentions that the product has been obtained by genetic modification techniques;

Whereas, Article 11 (6) and Article 16 (1) of Directive 90/220/EEC provide additional safeguards if new information on risks of the product becomes available;

Whereas this Decision does not exclude the application, in compliance with Community law, of Member States' provisions on human food or animal feed safety to the extent that they are not specifically related to the genetic modification of the product or its components;

Whereas the measures provided for in this Decision are in accordance with the opinion of the committee established under Article 21 of Directive 90/220/EEC,

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to other Community legislation and subject to paragraphs 2 and 3, consent shall be given by the competent authorities of the United Kingdom for the placing on the market of the following product, notified by Monsanto Europe (Ref. C/UK/94/M3/1) under Article 13 of Directive 90/220/EEC.

⁽¹⁾ OJ No L 117, 8. 5. 1990, p. 15.

⁽²⁾ OJ No L 103, 22. 4. 1994, p. 20.

The product consists of soya beans derived from a soya bean (*Glycine max* L. cv A5403) line (40-3-2) in which the following sequences have been inserted:

— a single copy of the gene coding for glyphosate tolerance CP4 5-enolpyruvylshikimate-3-phosphate synthase (CP4 EPSPS) from *Agrobacterium* sp. strain CP4, and the chloroplast transit peptide (CTP) coding sequence from *Petunia hybrida* with the promoter P-E35S from cauliflower mosaic virus and the nopaline synthase gene terminator from *Agrobacterium tumefaciens*.

2. The consent shall cover any progeny derived from crosses of the product with any traditionally red soya bean lines.

3. The consent shall cover the following uses of the product: handling in the environment during import before and during storage, and before and during its processing to non-viable products.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 3 April 1996.

For the Commission

Ritt BJERREGAARD

Member of the Commission

COMMISSION DECISION

of 10 April 1996

on the reorganization of the Joint Research Centre

(96/282/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

Having regard to the Treaty establishing the European Atomic Energy Community and in particular Articles 8 and 131 (2) thereof,

Having regard to the opinion of the Board of Governors of the JRC,

Whereas the Joint Research Centre (JRC) pursuant to Commission Decision 85/593/Euratom of 20 November 1985 on the reorganization of the Joint Research Centre (JRC) ⁽¹⁾, as last amended by Decision 93/95/Euratom ⁽²⁾, and by Decision 94/809/Euratom ⁽³⁾, is given a structure which is appropriate for the tasks assigned to it;

Whereas this structure shall be modified whenever the Commission considers it to be necessary to ensure the optimum efficiency of the JRC activities and the full conformity of the latter with the priorities of the Commission;

Whereas the Commission has decided, on 16 January 1996 that the JRC becomes an independent Directorate-General of the Commission in order to entrust to it the management autonomy necessary for the proper implementation of its tasks;

Whereas Decision 85/593/Euratom and its amendments should be replaced accordingly by the present Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The Joint Research Centre, hereinafter referred to as the 'JRC', shall consist of the establishments set up by the Commission to carry out the Community's research programmes and other tasks entrusted to it by the Commission.

⁽¹⁾ OJ No L 373, 31. 12. 1985, p. 6.

⁽²⁾ OJ No L 37, 13. 2. 1993, p. 44.

⁽³⁾ OJ No L 330, 21. 12. 1994, p. 64.

The organs of the JRC shall be:

- the Director-General,
- the Board of Governors,
- the Scientific Committee,

Article 3

The JRC shall be under the authority of a Director-General appointed by the Commission. The Director-General and a part of the services directly under him shall be located in Brussels.

The Director-General shall take all measures necessary for the efficient functioning of the JRC consistent with the regulations in force and the authority delegated to him.

In accordance with the procedures hereinafter described, the Director-General:

- shall prepare draft programmes for the JRC's various fields of activity for submission to the Commission, indicating the financial aspects thereof,
- shall establish a strategy for the JRC, particularly with regard to competitive activities, and take the appropriate measures to ensure their execution,
- shall negotiate and conclude research contracts with third parties,
- shall be responsible for the implementation of programmes and for financial administration,
- shall determine the internal organization of the JRC, particularly taking into account the requirements of the budget,
- shall, within the limits of the powers delegated to him, exercise the powers conferred upon the appointing authority by the Staff Regulations of officials and upon the authority empowered to conclude contracts by the conditions of employment of other servants.

Article 4

1. A Board of Governors of the JRC is hereby set up. It shall consist of the following members:

- (a) a high-level representative from each Member State, appointed by the Commission on the basis of nominations by the authorities of the State in question;
- (b) a chairman elected by the representatives of the Member States referred to in point (a).

All members shall be appointed for a renewable three-year term.

2. The Board of Governors shall assist the Director-General and deliver opinions for submission to the Commission on questions relating to:

- the role of the JRC within the Community research and technological development strategy,
- the scientific/technical and financial management of the JRC and the performance of the tasks entrusted to it.

As regards matters delegated to the Director-General by the Commission and in line with all matters which concern the Board of Governors in particular, the Director-General shall call for the opinion of the Board of Governors on his proposals before they are applied.

The prior opinion of the Board of Governors is necessary for any question submitted for a Commission decision.

The Board of Governors shall deal in particular with:

- (i) the proposals for specific programmes to be implemented by the JRC as well as proposals for other new tasks to be assigned to the JRC;
- (ii) the preparation of the multiannual strategic planning covering all JRC activities, and each year, not later than 31 December, the corresponding annual work plan indicating the objectives of each work programme for the following year and including a summary description of the programme with key dates, scientific references and estimated expenditure;
- (iii) the follow-up of the specific research and technology development programmes of the JRC:
 - their implementation, paying particular attention to their consistency with the needs of the Community,

- the coherence of their development with the specific indirect action programmes under the framework programmes; to this end, the Board of Governors will organize once a year exchanges of views with the relevant programme committees,

- any possible adjustments thereto;

- (iv) the follow up of relations with other Commission services and third parties on the customer/contractor principle;

- (v) the strategy for the JRC's competitive activities and their follow up;

- (vi) the formulation of proposals for the JRC annual budget and the monitoring of its implementation;

- (vii) — organization of the JRC,

- its financial management,

- major investments,

- implementation of its research activities,

- evaluation of the latter by 'visiting groups' composed of independent experts and the follow up of their recommendations;

- (viii) staff policy, with special emphasis on:

- the formulation of proposals concerning JRC staff policy,

- the aspects linked to staff mobility and exchanges of scientific and technical staff with public and private bodies in the Member States;

- (ix) the appointment and the prolongation or termination of the functions of high-level JRC staff.

3. The Board of Governors shall issue opinions on the basis of the majority required by Article 118 (2) of the EAEC Treaty, the votes being weighted in accordance therewith. The Chairman shall not vote.

The Commission shall take the utmost account of the opinions issued by the Board of Governors. In the absence of the assent of the Board of Governors to a proposal by the Director-General, it shall be referred to the Commission, which shall decide the matter. The Board of Governors shall be informed of the Commission's decision. The Council shall be informed without delay if the decision is not in keeping with the opinion of the Board of Governors. It shall also be informed of the reasons for the decision.

If the Commission does not accept an opinion issued by the Board of Governors on matters requiring a decision

by the Commission, the implementation of measures relating to such matters shall be postponed for one month; during this month the matters in question shall be referred back to the Board of Governors and a new opinion shall be requested. On receipt of this opinion or at the end of the month in question, the Commission shall take a final decision and shall inform the Board of Governors thereof. If it is unable to accept the opinion of the Board of Governors, the Commission shall inform the Council of its decision and of the reasons for the decision without delay. The Commission shall keep the Board of Governors informed of its decisions relating to the JRC in respect of any matter on which the Board of Governors has issued an opinion.

The Board of Governors may, through the Commission, submit opinions to the Council and European Parliament on all matters relating to the JRC.

4. The Board of Governors shall submit its observations on the annual management report drawn up by the Director-General. These observations, together with the annual management report as approved by the Commission, shall be sent to the Council and to the European Parliament.

The Board of Governors shall advise the Director-General with regard to the organization of the evaluation of the tasks performed by the JRC, in connection both with the scientific and technical results and with the administrative and financial management of the Centre; it shall also provide advice about the selection of independent experts called upon to participate in this evaluation. The Board of Governors shall submit its own comments on the results of these evaluations.

5. The Board of Governors shall meet at least four times a year.

The Board of Governors shall draw up its rules of procedure, including rules concerning the organization of its work.

The JRC shall provide the secretariat for the Board of Governors and shall make available to it any information it may require.

Article 5

A scientific committee of the JRC is hereby set up to assist the Director-General.

One half of the Scientific Committee shall be composed of members designated by the Director-General from among the main heads of unit or project managers and the high-level scientific staff, and the other half shall be

composed of representatives of the scientific and technical staff elected by that staff.

The Scientific Committee shall be regularly consulted by the Director-General on all questions of a scientific or technical nature relating to the activities of the JRC. In this connection, it shall, in particular, take part in the preparation of draft programmes.

Article 6

1. Having due regard to the general policy adopted by the Council and the European Parliament and to the general guidelines issued by the Commission, the Director-General shall prepare the draft programmes for the JRC's fields of activity.

2. The Board of Governors shall be consulted on the draft programmes.

3. The Commission shall examine the draft programmes in the light of the general policies of the Community and taking account of the budgetary situation of the latter. It shall adopt the proposals in accordance with the provisions of the Treaty and lay them before the Council.

Article 7

1. The Director-General shall be responsible for the proper execution of the programmes assigned to the JRC. He shall direct, by his decisions, the activities of the Institutes and services, and in particular decide between the alternative methods of implementing the programmes' objectives.

2. He shall provide the Commission with all the information it needs to draw up the reports required by Article 11 of the Euratom Treaty.

3. The Director-General shall ensure, as necessary, that successive programmes are properly coordinated and inter-related, during implementation and preparation, taking into account particularly the scientific and industrial infrastructure of the JRC. The Director-General shall arrange a review of the programmes which shall take place every two years.

Article 8

1. Each year the Director-General shall make an estimate of the funds required for the implementation of

the programmes, to allow for the drawing up of the corresponding part of the preliminary draft budget of the Communities. This estimate shall include a forecast of revenue and expenditure in respect of work executed by the JRC for competitive activities.

Article 6 shall apply, *mutatis mutandis*, to the preparation of preliminary draft budgets for research activities.

2. Expenditures of the JRC shall be authorized by the Director-General; he shall sign payment orders and receipts; he shall conclude contracts and authorize transfers of funds.

3. The Director-General shall submit to the Commission at the end of the financial year a statement of revenue and expenditure for that financial year.

4. The Commission shall appoint the officer responsible for the control of commitments and the authorization of expenditures as well as the control of receipt of revenues.

5. The Commission shall appoint an accounting officer responsible for the payment of expenditure and receipt of revenue and for the handling of funds and securities, for the safe custody of which he shall be responsible.

Article 9

1. Within the limits of powers delegated to him, the Director-General shall have such powers over the staff as are conferred upon him by the appointing authority.

2. However, in respect of officials and other servants of grades A1 and A2, the powers laid down in Articles 29, 49, 50 and 51 and Title VI of the Staff Regulations shall be exercised by the Commission on a proposal from the Director-General.

3. The Director-General shall, on behalf of the Commission, take all measures necessary to ensure the safety of persons and installations for which he is responsible.

Article 10

The Director-General may delegate to the Deputy Director-General and to the Directors the powers conferred on him.

Done at Brussels, 10 April 1996.

For the Commission

Édith CRESSON

Member of the Commission

COMMISSION DECISION

of 11 April 1996

approving the programme for the eradication of Aujeszky's disease in Luxembourg

(Text with EEA relevance)

(96/283/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, as last amended by Directive 95/25/EC ⁽²⁾, and in particular Article 9 (3) thereof,

Whereas an eradication programme was commenced in Luxembourg for Aujeszky's disease in February 1993; whereas this programme was approved by Commission Decision 93/200/EEC ⁽³⁾ for a three-year period which expired on 14 March 1996;

Whereas the eradication programme is still in progress; whereas the programme should allow Aujeszky's disease to be eradicated from Luxembourg in the future;

Whereas it is therefore appropriate to extend the approval of the programme for a further period of three years;

Whereas the measures provided for in this decision are in accordance with the opinion of the Standing Veterinary Committee,

Article 1

The programme for the eradication of Aujeszky's disease from Luxembourg is hereby approved for a further period of three years.

Article 2

Luxembourg shall bring into force by 15 April 1996 the laws, regulations and administrative provisions for implementing the programme referred to in Article 1.

Article 3

This Decision shall enter into force on 15 April 1996.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 11 April 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 121, 29. 7. 1964, p. 1977/64.

⁽²⁾ OJ No L 243, 11. 10. 1995, p. 16.

⁽³⁾ OJ No L 87, 7. 4. 1993, p. 14.

COMMISSION DECISION

of 12 April 1996

establishing the list of measures to which Regulation (EEC) No 4045/89 of the Council does not apply

(96/284/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC ⁽¹⁾, as last amended by Regulation (EC) No 3235/94 ⁽²⁾, and in particular Article 1 (4) thereof,

The system of scrutinies established by Regulation (EEC) No 4045/89 does not apply to the measures listed in the Annex to this Decision.

Article 2

Whereas Article 1 (4) of Regulation (EEC) No 4045/89 expressly provides that a list of measures shall be drawn up to which the Regulation is not applicable; whereas it is appropriate to include in such a list measures which are by their nature unsuited to *a posteriori* control by way of scrutiny of commercial documents;

This Decision is addressed to the Member States.

Done at Brussels, 12 April 1996.

Whereas the measures provided for in this Decision are in accordance with the opinion of the Fund Committee,

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 388, 30. 12. 1989, p. 18.

⁽²⁾ OJ No L 338, 28. 12. 1994, p. 16.

ANNEX

MEASURES TO WHICH THE SYSTEM OF SCRUTINY PURSUANT TO COUNCIL REGULATION (EEC) NO 4045/89 DOES NOT APPLY

Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organization of the market in flax and hemp (OJ No L 146, 4. 7. 1970, p. 1):

the measures referred to in Article 4, in so far as the aid is paid to the producer

Council Regulation (EEC) No 1096/88 of 25 April 1988 establishing a Community scheme to encourage the cessation of farming (OJ No L 110, 29. 4. 1988, p. 1)

Council Regulation (EEC) No 1442/88 of 24 May 1988 on the granting, for the 1988/89 to 1995/96 wine years, of permanent abandonment premiums in respect of wine-growing areas (OJ No L 132, 28. 5. 1988, p. 3)

Council Regulation (EEC) No 1196/90 of 7 May 1990 on the stabilization of the Community production of mandarins (OJ No L 119, 11. 5. 1990, p. 55)

Council Regulation (EEC) No 1200/90 of 7 May 1990 on the improvement of the Community production of apples (OJ No L 119, 11. 5. 1990, p. 63)

Council Regulation (EEC) No 1703/91 of 13 June 1991 introducing a temporary set-aside scheme for arable land for the 1991/92 marketing year and laying down special measures for that marketing year under the set-aside scheme provided for in Regulation (EEC) No 797/85 (OJ No L 162, 26. 6. 1991, p. 1)

Council Regulation (EEC) No 2328/91 of 15 July 1991, on improving the efficiency of agricultural structures (OJ No L 218, 6. 8. 1991, p. 1):

the following sections:

- Title I — Set-aside of arable land
- Title II — Extensification of production
- Title VII — Aid in areas sensitive as regards protection of the environment and natural resources and as regards safeguarding the landscape and the countryside
- Title VIII — Forestry measures on agricultural holdings

Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods comparable with the requirements of the protection of the environment and the maintenance of the countryside (OJ No L 215, 30. 7. 1992, p. 85)

Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming (OJ No L 215, 30. 7. 1992, p. 91)

Council Regulation (EEC) No 2080/92 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture (OJ No L 215, 30. 7. 1992, p. 96)

Council Regulation (EEC) No 2505/95 of 24 October 1995 on the improvement of the Community production of peaches and nectarines (OJ No L 258, 28. 10. 1995, p. 1)

COMMISSION DECISION

of 12 April 1996

amending Decision 94/278/EC, drawing up a list of third countries from which Member States authorize the imports of certain products subject to Council Directive 92/118/EEC

(Text with EEA relevance)

(96/285/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/118/EEC of 17 December 1992, laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC⁽¹⁾, as last amended by Commission Decision 96/103/EC⁽²⁾, and in particular Article 10 (2) (a) thereof,

Whereas Commission Decision 94/278/EC⁽³⁾, as last amended by Decision 96/166/EC⁽⁴⁾, establishes a list of third countries from which the Member States authorize imports of certain products subject to Directive 92/118/EEC;

Whereas Commission Decision 95/338/EC⁽⁵⁾ amended Chapter 1 of Annex II to Directive 92/118/EEC so as to provide for a distinction between the list of third countries from which the Member States authorize imports of fresh poultrymeat and certain poultrymeat products respectively;

Whereas it is therefore appropriate to amend the existing list of third countries from which the Member States authorize imports of eggs and egg products as laid down in Part VIII of the Annex to Decision 94/278/EC, in order to align the list for egg products to that of heat-treated poultrymeat products;

Whereas, the list of third countries laid down in Decision 94/278/EC furthermore includes the list of countries from which Member States authorize the imports of pet food containing low-risk materials within the meaning of Council Directive 90/667/EEC⁽⁶⁾;

Whereas, following a request made by the Sri Lankan authorities, the Commission has carried out an animal health mission to the Democratic Socialist Republic of Sri Lanka; whereas this mission has demonstrated that Sri Lanka can fulfil the health requirements for certain types of pet foods; whereas, it is therefore appropriate to include Sri Lanka in the list of countries authorized for the importation of certain pet foods into the European Community;

(1) OJ No L 62, 15. 3. 1993, p. 49.

(2) OJ No L 24, 31. 1. 1996, p. 28.

(3) OJ No L 120, 11. 5. 1994, p. 44.

(4) OJ No L 39, 17. 2. 1996, p. 25.

(5) OJ No L 200, 24. 8. 1995, p. 35.

(6) OJ No L 363, 27. 12. 1990, p. 51.

Whereas, following the receipt of a request from the Indian authorities, it is appropriate to add India to the list of third countries from which the Member States authorize imports of snails;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 94/278/EC is amended as follows:

1. Part VIII is replaced by the following:

'PART VIII

List of third countries from which the Member States authorize imports of eggs and egg products intended for human consumption

A. *Eggs:*

All third countries listed in Decision 94/85/EC.

B. *Egg products:*

All third countries listed in Part 1 of the Annex to Council Decision 72/542/EEC.;

2. to the text in Part X the following words are added:

‘, and the following countries:

(LK) Sri Lanka(*)).

(*) Untanned edible products for pets made from skins of ungulates (dogchews) only.’;

3. in Part XI, the following line is inserted in accordance with the alphabetical order of the ISO code:

‘(IN) India’.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 April 1996.

For the Commission

Franz FISCHLER

Member of the Commission
