II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 December 1994

amending Decision 90/218/EEC concerning the placing on the market and administration of bovine somatotrophin (BST)

(94/936/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas, in applying Decision 90/218/EEC (3), the Member States must ensure that, until 31 December 1994, the placing on the market and the administration of bovine somatotrophin on their territory by any means whatsoever to dairy cows is not authorized;

Whereas the Commission has proposed extending, until the end of the arrangements introduced by Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk-products sector (4), the prohibition on the placing on the market and the administration of bovine somatotrophin on their territory by any means whatsoever to dairy cows;

Whereas on 28 October 1994, the Commission sent the Council and update of its communication in order to assess the new situation created by the United States' decision to authorize marketing of bovine somatotrophin and the consequences of that decision for international trade;

Whereas the Council considers that it needs more time to evaluate the implications of a definitive decision in this respect, and in particular the consequences of agreements concluded under the Uruguay Round;

Whereas the Committee for Veterinary Medicinal Products has recommended Member States concerned to carry out larger-scale studies for a period of two years, under veterinary control, in order to determine the effects of BST on cases of mastitis and associated metabolic disorders in normal use; whereas the effects on the well-being of dairy cows should also be examined;

Whereas it is therefore necessary to amend Decision 90/218/EEC in order to allow those Member States which so desire to conduct such additional studies; whereas the Commission and the Scientific Veterinary Committee should be associated with such additional studies; whereas no definitive decision should be taken on this matter pending the results of those studies.

Whereas, moreover, in order to obviate distortions of competition, Member States which so wish should be allowed to authorize the production of bovine somatotrophin for exports to third countries;

Whereas provision should lastly be made for a review clause permitting a definitive decision to be taken on the basis of such additional data,

(1) OJ No C 3, 5. 1. 1994, p. 7.
(2) OJ No C 20, 24. 1. 1994, p. 531.
(3) OJ No L 116, 8. 5. 1990, p. 27. Decision as last amended by Decision 93/718//EC (OJ No L 333, 31. 12. 1993, p. 72).
(4) OJ No L 405, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 1883/94 (OJ No L 197, 30. 7. 1994, p. 25).

HAS ADOPTED THIS DECISION:

'Article 1

Decision 90/218/EEC is hereby amended as follows:

1) Article 1 shall be replaced by the following:

'Article 1

Member States shall ensure that, until 31 December 1999, the placing on the market of bovine somatotrophin for the purposes of its marketing and the administration thereof on their territory to dairy cows by any means whatsoever will not be authorized.

This Decision shall not affect the production of bovine somatotrophin for the purposes of its export to third countries.'

2) Article 2 shall be replaced by the following:

'Article 2

1. By way of derogation from Article 1, Member States may carry out limited practical tests on the use of bovine somatotrophin, under the control of an official veterinarian, in order to obtain any other scientific data that might be taken into account by the Council when it takes a final decision.

The conditions and criteria for such tests shall be laid down in accordance with the procedure referred to in Article 4. Member States wishing to avail themselves of the option provided for in the first subparagraph shall inform the Commission accordingly.

They shall make information on the data concerned available to the Commission and the other Member States.

2. The Council hereby instructs the Commission to entrust a Working Party of independent scientists, in collaboration with the Member States, with the task of assessing the effects of using BST, taking account of the opinion of the Committee for Veterinary Medicinal Products, in particular as regards the impact of the use of this product on the incidence of mastitis.

3. The Member States referred to in the first subparagraph of paragraph 1 may ask to be covered by the provisions of Article 19 of Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field (*) when carrying out the checks provided for in that subparagraph.

(*) OJ No L 224, 18. 8. 1990, p. 19.'

3) Article 3 shall be replaced by replaced by the following:

'Article 3

Before 1 July 1998, the Commission shall submit a report to the Council on the conclusions of the studies carried out pursuant to Article 2, with a view to a definitive decision being taken on this matter.'

4) Article 4 shall be replaced by the following:

'Article 4

1. Where the procedure laid down in this Article is to be followed, matters shall be referred without delay to the Standing Veterinary Committee set up by Decision 68/361/EEC (*), hereinafter referred to as 'the Committee', by its chairman, either on his own initiative or at the request of a Member State.

2. The Commission representative shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on those measures within a time limit which the chairman may set according to the urgency of the matter for examination. Opinions shall be delivered by the majority of 62 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the measures and implement them immediately where they are in accordance with the opinion of the Committee.

(b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall forthwith submit to the Council a proposal concerning the measures to be taken. The Council shall adopt the measures by a qualified majority.

(c) If, three months after the proposals were submitted to it, the Council has not adopted any measures, the Commission shall adopt the measures proposed and implement them immediately unless the Council has rejected those measured by a simple majority.'

(*) OJ No L 255, 18. 10. 1988, p. 23.'

Article 2

This Decision shall apply from 1 January 1995.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 December 1994.

For the Council

The President

J. BORCHERT