COMMISSION DECISION

of 10 January 2006

concerning the provisional prohibition in Greece of the marketing of seeds of maize hybrids with the genetic modification MON 810 inscribed in the common catalogue of varieties of agricultural plant species, pursuant to Directive 2002/53/EC

(notified under document number C(2005) 5964)

(Only the Greek text is authentic)

(2006/10/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species [1], and in particular Article 18 thereof,

Whereas:

(1) The Commission has, in accordance with Article 17 of Directive 2002/53/EC, published on 17 September 2004 in the C series of the *Official Journal of the European Union* a list of seventeen genetically modified varieties of maize derived from the genetically modified organism MON 810 in the 13th supplement to the 22nd complete edition of the common catalogue of varieties of agricultural plant species [2].

(2) Under Article 16(1) of the Directive, Member States shall ensure that, with effect from the publication referred to in Article 17, seed of varieties accepted in accordance with this Directive or in accordance with the principles corresponding to those of this Directive is not subject to any marketing restrictions relating to the variety.

(3) According to Article 7(4) of the said Directive, genetically modified varieties shall only be accepted for inclusion in a national catalogue after having been accepted for marketing in accordance with Council Directive 90/220/EEC [3], which provides for the assessment of the risks for human health and the environment of genetically modified organisms.

(4) Commission Decision 98/294/EC of 22 April 1998 concerning the placing on the market of genetically modified maize (*Zea mays* L. line MON 810), decided pursuant to Council Directive 90/220/EEC [4] that consent shall be given for the placing on the market of that product. On 3 August 1998 the French authorities effectively allowed the placing on the market of that product.

(5) On 7 April 2005, the Greek authorities notified to the Commission a Ministerial Order No 243267 of 3.3.2005 prohibiting for the growing seasons of 2005 and 2006 the marketing of seeds of the seventeen above-mentioned varieties and asked the Commission to authorise this national measure in accordance with Article 18 of Directive 2002/53/EC.

(6) Article 18 of Directive 2002/53/EC, provides that if it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from a point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised to prohibit the marketing of the seed in question in all or part of its territory. Where there is imminent danger of the spread of harmful organisms or imminent danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken.

(7) The Greek authorities explained in the notification that the prohibition measure is deemed necessary in so far as the cultivation of the genetically modified varieties may cause adverse effects to the rural environment. Greece did not supply information supporting its measure which could have been referred to the European Food Safety Authority for a risk assessment as regards human health or the environment of these genetically modified varieties. On 4 May 2005, the Commission wrote to the Greek authorities and asked for clarifications, in particular, on the possible effects of the marketing of those seeds on the rural environment. The Greek authorities replied on 12 May 2005, that adverse effects caused to the rural environment by the seeds of those 17 genetically modified varieties, are of an economic nature and do not concern the environment in general or human health. In this regard, the response also stated that the Greek authorities are aware that in application of Community legislation for environmental risk assessment, MON 810 has already been assessed as safe for the environment and human health.

[1] OJ L 193, 20.7.2002, p. 1. Directive as amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 1).
[2] OJ C 232 A, 17.9.2004, p. 1.
[3] OJ L 117, 8.5.1990, p. 15. Directive as last amended by Commission Directive 97/35/EC (OJ L 169, 27.6.1997, p. 72).
[4] OJ L 131, 5.5.1998, p. 32.

(8) On this basis, none of the specific provisions of Article 18 of Directive 2002/53/EC are applicable in the case of the prohibition of the cultivation of these varieties by the Greek authorities and an authorisation for such a prohibition may thus not be granted.

(9) The Standing Committee on Seeds and Plant Propagating Material for Agriculture, Horticulture and Forestry did not deliver a favourable opinion in the time limit laid down by its chairman. The Commission therefore submitted a proposal relating to these measures to the Council on 30 August 2005, pursuant to Article 23, paragraph 3 of Directive 2002/53/EC and in accordance with Article 5 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1].

(10) Since, on the expiry of the period laid down in Article 23(3) of Directive 2002/53/EC, the Council had neither adopted the proposed measures nor indicated its opposition to them, in accordance with Article 5(6) of Decision 1999/468/EC, the measures should be adopted by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The Hellenic Republic is not authorised to prohibit the marketing of seeds of maize hybrids with the genetic modification MON 810 inscribed in the common catalogue of varieties.

Article 2

The Hellenic Republic shall take the necessary steps to comply with this Decision within 20 days after its notification, at the latest.

Article 3

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 10 January 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

[1] OJ L 184, 17.7.1999, p. 23.