COMMISSION DECISION

of 8 May 2006

authorising the Republic of Poland to prohibit on its territory the use of 16 genetically modified varieties of maize with the genetic modification MON 810 listed in the Common catalogue of varieties of agricultural plant species, pursuant to Council Directive 2002/53/EC

(notified under document number C(2006) 1795)

(Only the Polish text is authentic)

(2006/335/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 16(2)(b) thereof,

Whereas:

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

(3) Article 7(4) of the said Directive provides that genetically modified varieties may only be accepted for inclusion in a national catalogue after having been accepted for marketing in accordance with Council Directive 90/220/EEC [3], now replaced by Directive 2001/18/EC of the European Parliament and of the Council [4], which provides for the evaluation 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 [5] that consent should 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 31 March 2005, the Commission received from the Republic of Poland a request for the prohibition, on the basis of Article 16(2) of Directive 2002/53/EC, of the use and placing on the market of seed material from 17 genetically modified varieties of maize line MON 810. A modified request was sent on 24 June 2005 specifying that it was based on Article 16(2)(b). On 9 December 2005, Poland informed the Commission that the request does not apply to the Novelis variety mentioned in the original request. Poland also specified that the request for the remaining varieties is for an unlimited period of time.

(6) From the information available for the 16 varieties concerned, it is well known that they are not suitable for cultivation in any part of Poland because of their too high maturity class which is at least of 350 FAO index or equivalent maturity class. The climatic and agricultural factors concerned provide a permanent obstacle to cultivating these varieties in Poland.

(7) Under these circumstances, the application of the Republic of Poland should be granted on the basis of Article 16(2)(b) for the 16 genetically modified varieties of maize concerned.

(8) In order to allow the Commission to inform the other Member States and update the Common catalogue of varieties of agricultural plant species provided for in Directive 2002/53/EC, Poland should be required to inform the Commission when it makes use of the authorisation granted by this Decision.

[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.
[4] OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p. 24).
[5] OJ L 131, 5.5.1998, p. 32.

(9) The Republic of Poland has made a similar request for varieties of non-genetically modified maize. As such requests are governed by a different procedure, this will be the subject of a separate decision.

(10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The Republic of Poland is authorised to prohibit the use, in any part of its territory, of the 16 genetically modified varieties of maize listed in the 13th supplement to the 22nd complete edition of the Common catalogue of varieties of agricultural plant species and listed in the Annex to this Decision.

Article 2

In order to allow the Commission to inform the other Member States, the Republic of Poland shall notify the Commission of the date from which it makes use of the authorisation given under Article 1.

Article 3

This Decision is addressed to the Republic of Poland.

Done at Brussels, 8 May 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

1. Aliacan BT
2. Aristis BT
3. Bolsa
4. Campero BT
5. Cuartal BT
6. DK 513
7. DKC6550
8. DKC6575
9. Elgina
10. Gambier BT
11. Jaral BT
12. Lévina
13. Olimpica
14. PR32P76
15. PR33P67
16. Protect