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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2007)

final

Draft

COMMISSION DECISION

of

**on the withdrawal from the market of products derived from GA21xMON810
(MON-00021-9xMON-00810 -6) maize**

(Memorandum from Mr M. KYPRIANOU)

Draft

COMMISSION DECISION

of

**on the withdrawal from the market of products derived from GA21xMON810
(MON-00021-9xMON-00810-6) maize**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1829/2003 of the European Parliament and the Council of 22 September 2003 on genetically modified food and feed¹, and in particular Article 8(6) and 20(6) thereof,

Whereas:

- (1) Products derived from GA21xMON810 (MON-00021-9xMON-00810-6) maize have been notified as existing products by Monsanto Europe S.A (hereafter "the notifier") under Article 8(1)(b) and Article 20(1)(b) of Regulation (EC) No 1829/2003 (hereafter "the Regulation") and entered in the Community Register of genetically modified food and feed. The scope of the notification covered food additives, feed materials and feed additives produced from MON-00021-9xMON-00810-6 maize.
- (2) No consent for placing on the market of seeds from MON-00021-9xMON-00810-6 maize has been granted in the Community. The notifier of MON-00021-9xMON-00810-6 maize, in a letter to the Commission dated 1 March 2007, indicated that 2005 was the last year of approved commercial sales of seeds of MON-00021-9xMON-00810-6 maize on a global basis.
- (3) The notifier has further indicated to the Commission that it has no intention to submit an application for renewal of the authorisation of products derived from MON-00021-9xMON-00810-6 maize under the Regulation in accordance with the second sub-paragraph of Article 8(4), Article 11, the second sub-paragraph of Article 20(4), and Article 23 respectively. Therefore products derived from MON-00021-9xMON-00810-6 maize cannot be placed on the market in the Community after 18 April 2007.

¹ OJ L 268 of 18.10.2003, p. 1. Regulation as amended by Commission Regulation (EC) No 1981/2006 (OJ L 368, 23.12.2006, p. 99).

- (4) Measures to ensure effective withdrawal from the market of seeds of MON-00021-9xMON-00810-6 maize are not necessary since these seeds could never be legally placed on the market in the Community. Since the notifier has stopped selling seeds of MON-00021-9xMON-00810-6 maize after the 2005 planting season, stocks of products derived from MON-00021-9xMON-00810-6 maize have been used up and are not expected to be present on the market after 18 April 2007. However, minute traces of MON-00021-9xMON-00810-6 maize might remain present in food or feed products for a certain period of time.
- (5) For reasons of legal certainty, it is therefore necessary to provide for a transitional period of time within which food and feed products may contain such material without being considered to be in breach of Article 4(2) or Article 16(2) of the Regulation where this presence is adventitious and technically unavoidable.
- (6) The tolerated level and the period of time should be set taking into account the time needed until the non availability of the seeds produces its effects throughout the food and feed chain. In all cases, the tolerated level shall remain below the labelling and traceability threshold of no higher than 0,9 % provided for by the Regulation for the adventitious and technically unavoidable presence of GM material in food and feed.
- (7) The entries in the Community Register of genetically modified food and feed, as provided for in Article 28 of the Regulation, regarding MON-00021-9xMON-00810-6 maize should be modified in order to take account of this Decision.
- (8) The notifier has been consulted on the measures provided for in this Decision.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The presence of material produced from MON-00021-9xMON-00810-6 maize in food or feed products notified under Article 8(1)(b) and Article 20(1)(b) of the Regulation shall be tolerated until 5 years after the date of notification of this Decision:

- (a) provided that this presence is adventitious or technically unavoidable; and
- (b) in a proportion no higher than 0,9 %.

Article 2

The entries in the Community Register of genetically modified food and feed, as provided for in Article 28 of the Regulation, regarding MON-00021-9xMON-00810-6 maize shall be modified in order to take account of this Decision.

Article 3

This Decision is addressed to Monsanto Europe S.A., Scheldelaan 460, Haven 627, B - 2040 Antwerp, Belgium, representing Monsanto Company, United States of America.

Done at Brussels,

For the Commission
Markos KYPRIANOU
Member of the Commission