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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 7 April 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2020) 137 final

Subject: Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL amending Council Decision 2003/17/EC as regards the
equivalence of field inspections carried out in Ukraine on cereal seed-
producing crops and on the equivalence of cereal seed produced in
Ukraine

Delegations will find attached document COM(2020) 137 final.

Encl.: COM(2020) 137 final



Brussels, 7.4.2020
COM(2020) 137 final

2020/0053 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in Ukraine on cereal seed-producing crops and on the equivalence of cereal seed produced in Ukraine

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Decision 2003/17/EC grants equivalence to certain non-EU countries as regards field inspections and production of seed of certain species that are carried out in accordance with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC. The national provisions governing seed harvested and controlled in those countries afford the same assurances as regards the seed's characteristics and the arrangements for its examination, for ensuring seed identification, for marking and for control as the provisions applicable to seed harvested and controlled within the European Union. Ukraine is not included in those non-EU countries, therefore import into the European Union of cereal seeds harvested in that country is currently not possible.

Ukraine has submitted to the Commission a request that its cereal seed is covered by Council Decision 2003/17/EC as equivalent.

Following that request, the Commission has carried out an examination of the applicable legislation of Ukraine and conducted an audit of the field inspections and seed certification system for cereal seed in place in Ukraine. It was concluded that its requirements and system in place are equivalent to the ones of the Union and offer the same assurance as the Union's system.

Therefore, it is appropriate to recognise the Ukrainian seed as equivalent to cereal seed harvested, produced and controlled in the European Union through a Decision to be adopted by the European Parliament and the Council.

- **Consistency with existing policy provisions in the policy area**

This is a technical implementation of existing requirements and thus consistent with existing policy provisions in the policy area or marketing of seeds.

- **Consistency with other Union policies**

This proposal is in line with the aims of the EU-Ukraine Association Agreement, because it will boost trade in seed that complies with the Union's rules.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this act is Article 43(2) TFEU, which empowers the European Parliament and the Council to establish provisions necessary for the pursuit of the objectives of the common agricultural policy.

- **Subsidiarity (for non-exclusive competence)**

Requirements for seed are regulated at the Union level. In order to guarantee that imported seed can move freely in the Single Market, action at Union level is necessary.

- **Proportionality**

This is the only possible form of Union action to achieve the pursued objective.

- **Choice of the instrument**

The legal instrument is provided for by the legal base, Article 43(2) TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

The Member States have been informed and consulted in the Standing Committee on Plants, Animal, Food and Feed. No separate consultation has been required, as the initiative only concerns technical implementation of existing rules and no separate consultation has taken place under similar initiatives in the past. Ukraine itself has commented on the draft audit report, where no substantial controversies have been noted.

- **Collection and use of expertise**

The Commission has carried out a legislative analysis in exchange with Ukraine and its services have carried out an inspection in Ukraine. It has produced a report presenting necessary data justifying the initiative.

- **Impact assessment**

This is a Decision of purely technical nature, implementing existing rules, thus there is no requirement for an impact assessment.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT. The proposal will stimulate trade between Ukraine and the EU. By investing in seed production capacities in Ukraine, EU-based companies try to diversify their seed production areas all over Europe to reduce risks of producing only in one climate zone. Equivalence would therefore contribute to the maintenance of the continuous supply of high quality seed in the EU. Moreover, European seed companies seek new opportunities, which would be provided for by the EU equivalence. The proposal has no impact on compliance costs for operators. The “Digital Check” is not applicable to this proposal.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

None

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

The single substantive provision in the proposal adds Ukraine to the list of countries, for which equivalence of field inspections of seed-producing crops of cereal species and the equivalence of the produced seed has been recognised.

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in Ukraine on cereal seed-producing crops and on the equivalence of cereal seed produced in Ukraine

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Decision 2003/17/EC² provides that under certain conditions field inspections carried out on certain seed-producing crops in the listed third countries are to be considered equivalent to field inspections carried out in accordance with Union law and that under certain conditions seed of certain species of cereal produced in those countries is to be considered equivalent to seed produced in accordance with Union law.
- (2) Ukraine has submitted a request for the Commission to grant equivalence to its system of field inspections of cereal seed and to cereal seed produced and certified in Ukraine.
- (3) The Commission examined the relevant legislation of Ukraine, and, based on an audit carried out in 2015 concerning the system of official controls and of certification of cereal seed in Ukraine, and its equivalence with Union requirements, published its findings in a report entitled ‘Final report of an audit carried in Ukraine from 26 May 2015 to 04 June 2015 in order to evaluate the system of official controls and certification of cereal seed and their equivalence with European Union requirements’.
- (4) Following that audit, it has been concluded that field inspections of seed-producing crops, sampling, testing and official post-controls of cereal seed are carried out appropriately, and satisfy the conditions of Annex II to Decision 2003/17/EC and the respective requirements of Directive 66/402/EEC. Moreover, it has been concluded that the national authorities responsible for the implementation of seed certification in Ukraine are competent and operate appropriately.

¹ OJ C , , p. .

² Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries (OJ L 8, 14.1.2003, p. 10).

(5) Therefore it is appropriate to grant equivalence as regards field inspections carried in respect of cereal seed in Ukraine and as regards cereal seed produced in Ukraine and officially certified by its authorities.

(6) Decision 2003/17/EC should be therefore amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decision 2003/17/EC

Annex I to Decision 2003/17/EC is amended as follows:

(a) In the table, the following entry is inserted between 'TR' and 'US':

"UA	Ministry of Agrarian Policy and Food of Ukraine Khreshchatyk str., 24, 01001, KYIV	66/402/EEC"
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(b) In the footnote to that table, the following terms are inserted between 'TR — Turkey' and 'US — United States': :

"UA – Ukraine,".

Article 2

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President