

Council Directive of 24 July 1986 on the fixing of maximum levels
for pesticide residues in and on cereals (86/362/EEC) (repealed)

[^{F1}Article 1

1 This Directive shall apply to the products listed in Annex I, to the products obtained from them after drying or processing and to the composite foods in which they are included, in so far as they may contain pesticide residues.

2 This Directive shall apply without prejudice to:

- a Council Directive 74/63/EEC of 17 December 1973 on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs⁽¹⁾;
- b Council Directive 76/895/EEC of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables⁽²⁾;
- c Council Directive 90/642/EEC of 27 November 1990 on fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables⁽³⁾;
- d Commission Directive 91/321/EEC of 14 May 1991 on infant formulae and follow-on formulae⁽⁴⁾ and Commission Directive 96/5/EC of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children⁽⁵⁾. However, until maximum levels have been established in accordance with Article 6 of Directive 91/321/EEC or Article 6 of Directive 96/5/EC the provisions of Article 5a (1) and (3) to (6) of this Directive shall apply for the products concerned.

3 This Directive shall also apply to products referred to in paragraph 1 intended for export to third countries. However, maximum pesticide residue levels set in accordance with this Directive shall not apply in the case of products treated before export where it can be satisfactorily proved that:

- a the third country of destination requires a particular treatment in order to prevent the introduction of harmful organisms into its territory; or
- b the treatment is necessary in order to protect the products against harmful organisms during transport to the third country of destination and storage there.

4 This Directive shall not apply to the products referred to in paragraph 1 where it can satisfactorily be proved that they are intended for:

- a the manufacture of products other than foodstuffs or animal feed; or
- b sowing or planting.]

Textual Amendments

- F1** Substituted by [Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.](#)

Article 2

1 For the purposes of this Directive, ‘pesticide residues’ means residues of the pesticides and of their metabolites, and breakdown or reaction products [^{F2}listed in Annex II], which are present in or on the products referred to in Article 1.

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2 For the purposes of this Directive, ‘putting into circulation’ means any handing over, whether or not for a consideration, of the products referred to in Article 1.

Textual Amendments

F2 Deleted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

Article 3

1 Member States shall ensure that the products referred to in Article 1 do not, from the time they are put into circulation, present a danger to human health as a result of the presence of pesticide residues.

2 Member States may not prohibit or impede the putting into circulation within their territories of the products referred to in Article 1 on the grounds that they contain pesticide residues, if the quantity of such residues does not exceed the maximum levels specified in Annex II.

^{F1} Article 4

1 Notwithstanding Article 6, the products referred to in Article 1 shall not contain, from the time they are put into circulation, pesticide residue levels higher than those specified in the list referred to in Annex II.

The list of pesticide residues concerned and their maximum levels shall be established in Annex II in accordance with the procedure laid down in Article 12, having regard to current scientific and technical knowledge.

2 In the case of dried and processed products for which maximum levels are not explicitly fixed in Annex II, the maximum residue level applicable shall be that laid down in Annex II, taking into account, respectively, the concentration caused by the drying process or the concentration or dilution caused by processing. A concentration or dilution factor covering the concentration and/or dilution caused by certain drying or processing operations may be determined for certain dried or processed products in accordance with the procedure laid down in Article 12.

3 In the case of composite foods which contain a mixture of ingredients and for which maximum residue levels are not fixed, the maximum residue levels applied may not exceed the levels laid down in Annex II, taking into account the relative concentrations of the ingredients in the mixture and also the provisions of paragraph 2.

4 Member States shall ensure, at least by check sampling, compliance with the maximum levels referred to in paragraph 1. The necessary inspections and monitoring shall be carried out in accordance with Council Directive 89/397/EEC of 14 June 1989 on the official control of foodstuffs⁽⁶⁾, except for Article 14 thereof, and Council Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs⁽⁷⁾, except for Articles 5, 6 and 8 thereof.]

Textual Amendments

F1 Substituted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in

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and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

[^{F1} Article 5

Where for a product belonging to a group referred to in Annex I, a provisional maximum residue level applicable throughout the Community is set by the Commission in accordance with the provisions of Article 4 (1) (f) of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market⁽⁸⁾, this level will be indicated in Annex II with a reference to that procedure.

Textual Amendments

- F1** Substituted by [Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.](#)

Article 5a

1 For the purposes of this Article a Member State of origin shall be defined as the Member State in whose territory a product specified in Article 1 (1) is either legally produced and marketed or put into free circulation, and a Member State of destination as the Member State into whose territory such product is introduced and put into circulation for operations other than transit to another Member State or third country.

2 Member States shall introduce arrangements for establishing maximum residue levels, whether permanent or temporary, for products referred to in Article 1 (1), brought into their territories from a Member State of origin, taking into account good agricultural practice in the Member State of origin, and without prejudice to conditions necessary to protect the health of consumers, in cases where no maximum residue levels have been established for these products in accordance with the provisions of Articles 4 (1) or 5.

3 Where

- no maximum residue level has been established for a product referred to in Article 1 (1) in accordance with Articles 4 (1) or 5, and
- that product, which satisfies the maximum residue levels applied by its Member State of origin, has been subjected in the Member State of destination to measures whose effect is to prohibit or restrict its putting into circulation, on the grounds that the product contains pesticide residue levels in excess of the maximum residue level accepted in the Member State of destination, and
- either the Member State of destination has introduced new maximum residue levels or has altered the levels laid down in its legislation, or it has made changes to its controls which are disproportionate and/or discriminatory compared with those for its domestic production, or the maximum residue level applied by the Member State of destination differs substantially from the corresponding levels established by other Member States, or the maximum residue level applied by the Member State of destination represents a disproportionate level of protection compared with the level of protection applied by the Member State to pesticides carrying a similar risk or to similar agricultural products or foodstuffs,

the following exceptional provisions shall apply:

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- (a) the Member State of destination shall communicate the measures adopted to the other Member State concerned and the Commission within 20 days of their application. The notification shall document the facts involved;
- (b) on the basis of the notification referred to in (a), the two Member States concerned shall contact each other without delay in order to remove, whenever possible, the prohibitive or restrictive effect of the measures adopted by the Member State of destination by means of measures agreed between them; the Member States shall submit all the requisite information to each other.

Within a period of three months of the notification referred to in (a), the Member States concerned shall inform the Commission of the result of such contacts and in particular the measures they intend to apply, if any, including the maximum residue level they have agreed. The Member State of origin shall inform the other Member States of the result of such contacts;

- (c) the Commission shall immediately refer the matter to the Standing Committee on Plant Health and, if possible, submit a proposal aimed at establishing in Annex II a temporary maximum residue level, which shall be adopted in accordance with the procedure laid down in Article 12.

In its proposal, the Commission shall take account of existing technical and scientific knowledge on the matter and in particular data submitted by the Member States with an interest, especially the toxicological assessment and estimated ADI, good agricultural practice and the trial data which the Member State of origin used to establish the maximum residue level, together with the reasons given by the Member State of destination for deciding on the measures in question.

The period of validity of the temporary maximum level shall be laid down in the legal act adopted and may not exceed four years. That period may be linked to the supply, by the Member State of origin and/or other Member States with an interest, of the trial data required by the Commission in order to set the maximum residue level in accordance with Article 4 (1). At their request, the Commission and the Member States shall be kept informed regarding the programme of trials established.

4 Any measure provided for in paragraphs 2 or 3 shall be taken by a Member State with due regard for its obligations under the Treaty, in particular Articles 30 to 36 thereof.

5 Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽⁹⁾ shall not apply to measures adopted and notified by Member States in accordance with paragraph 3 of this Article.

6 Detailed measures for the implementation of the procedure set out in this Article may be adopted in accordance with the procedure laid down in Article 11a.]

Textual Amendments

F1 Substituted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

Article 6

Member States may authorize the presence in and on the products referred to in Article 1 of the pesticide residues listed in Part B of Annex II in greater quantities than those specified therein, provided that those products are not intended for immediate consumption and an appropriate control system ensures that they cannot be made available to the end user or to the consumer, if they are supplied directly to the latter, until the residues no longer exceed the maximum levels specified in Part B. They shall inform the other Member States and the Commission of the measures taken. These measures shall be applicable to all products covered thereby, irrespective of the origin of the products.

^{F1}Article 7

1 Member States shall designate and authority to ensure that the monitoring specified in Article 4 (4) is carried out.

2

- a By [^{F3}30 September] each year, Member States shall send to the Commission their forward national monitoring programmes for the following calendar year. These forward programmes shall specify at least:
 - the products to be inspected and the number of inspections to be carried out,
 - the pesticide residues to be inspected,
 - the criteria applied in drawing up these programmes.
- b By [^{F3}31 December] each year, the Commission shall submit to the Standing Committee on Plant Health a draft recommendation setting out a coordinated Community monitoring programme identifying the taking of specific samples to be included in the national monitoring programmes. The recommendation shall be adopted in accordance with the procedure laid down in Article 11b. The basic objective of the Community monitoring programme shall be to make optimum use at Community level of the sampling of cereals included in the groups listed in Annex I, produced in the Community or imported into it, when problems have been identified, in order to ensure compliance with the maximum levels for pesticide residues set out in Annex II.

3 By 31 August each year, Member States shall send to the Commission and the other Member States the results of the analyses of the samples taken during the previous year under their national monitoring programmes and under the coordinated Community monitoring programme. The Commission shall collate and compile this information together with the results of the checks carried out in accordance with Directives 86/363/EEC⁽¹⁰⁾ and 90/642/EEC and analyse:

- infringements of the maximum residue levels, and
- the average actual levels of residues and their relative values with respect to the maximum residue levels established.

The Commission should progressively work towards a system, when preparing the coordinated monitoring programme, which could permit the estimation of actual pesticide dietary exposure.

The Commission shall forward this information to the Member States in the framework of the Standing Committee on Plant Health before [^{F3}31 December] for each year, for review and adoption of any necessary measures such as:

- any action to be taken at Community level in the case of reported infringements of the maximum levels,
- the desirability of publication of the collated and compiled information.

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4 The following may be adopted in accordance with the procedure laid down in Article 11a:

- a amendments to paragraphs 2 and 3 of this Article in so far as these amendments concern the dates for notification;
- b detailed implementing rules necessary for proper functioning of the provisions of paragraphs 2 and 3.

5 Not later than 31 December 1999 the Commission shall forward to the Council a report on the application of this Article, accompanied, if necessary, by any appropriate proposals.]

Textual Amendments

- F1** Substituted by [Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.](#)
- F3** Substituted by [Commission Directive 1999/65/EC of 24 June 1999 amending Council Directives 86/362/EEC and 90/642/EEC on the fixing of maximum levels for pesticide residues in and on cereals and certain products of plant origin including fruit and vegetables respectively \(Text with EEA relevance\).](#)

Article 8

1 The methods of sampling and analysis necessary for carrying out the checks, monitoring and other measures provided for in Article 4 and, where appropriate, Article 5, shall be determined in accordance with the procedure laid down in [^{F1}Article 11a]. The existence of Community analysis methods, to be used in cases of dispute, shall not preclude the use by Member States of other scientifically valid methods capable of achieving comparable results.

2 Member States shall inform the other Member States and the Commission of the other methods used pursuant to paragraph 1.

Textual Amendments

- F1** Substituted by [Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.](#)

[^{F1}Article 9

1 Where a Member State, as a result of new information or of a reassessment of existing information considers that a maximum level fixed in Annex II endangers human or animal health, and therefore requires swift action to be taken, that Member State may temporarily reduce the level in its own territory. In that case, it shall immediately notify the other Member States and the Commission of the measures, attaching a statement of the reasons therefor.

2 The Commission shall quickly examine the reasons given by the Member State referred to in paragraph 1 and shall consult the Member States within the Standing Committee on Plant Health, hereinafter referred to as ‘the committee’; it shall then deliver its opinion forthwith and take the appropriate measures. The Commission shall immediately notify the Council and the Member States of any measures taken. Any Member State may refer the Commission’s measures to the Council within 15 days of such notification. The Council acting by a qualified

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majority may take a different decision within 15 days of the date on which the matter was referred to it.

3 If the Commission considers that the maximum levels laid down in Annex II should be amended to resolve the difficulties mentioned in paragraph 1 and to guarantee public health protection, it shall initiate the procedure laid down in Article 13, with a view to adopting those amendments. In this case, the Member State which has taken measures under paragraph 1 may maintain them until the Council or the Commission has taken a decision in accordance with the said procedure.]

Textual Amendments

F1 Substituted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

^{F1}Article 10

Without prejudice to the amendments made to the Annexes in accordance with Articles 5, 5a (3) and 9, amendments to the Annexes shall be adopted in accordance with the procedure laid down in Article 12, having regard to current scientific and technical knowledge. In particular, when establishing maximum residue levels, account shall be taken of a relevant dietary intake risk assessment and of the number and quality of the data available.]

Textual Amendments

F1 Substituted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

^{F2}Article 11

Textual Amendments

F2 Deleted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.

^{F4}Article 11a

1 The Commission shall be assisted by a committee.

2 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC⁽¹¹⁾ shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

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3 The committee shall adopt its rules of procedure.

Textual Amendments

- F4** Substituted by [Council Regulation \(EC\) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure \(unanimity\).](#)

Article 11b

1 The Commission shall be assisted by a committee.

2 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at fifteen days.

3 The committee shall adopt its rules of procedure.

Textual Amendments

- F4** Substituted by [Council Regulation \(EC\) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure \(unanimity\).](#)

Article 12

1 The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health set up by Article 58 of Regulation (EC) No 178/2002⁽¹²⁾.

2 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 The committee shall adopt its rules of procedure.]

Textual Amendments

- F4** Substituted by [Council Regulation \(EC\) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure \(unanimity\).](#)

Article 13

1 Where the procedure laid down in this Article is to be followed, the matter shall be referred without delay to the Committee by its chairman, either on his own initiative or at the request of a Member State.

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[^{F5}]^{F6}2 The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion within two days. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.]]

[^{F5}]^{F6}3.]] Where the measures are in accordance with the opinion of the Committee, the Commission shall adopt them and shall implement them forthwith. Where they are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall immediately submit to the Council a proposal on the measures to be taken. The Council shall adopt the measures by a qualified majority.

If, within 15 days of the date on which the matter was referred to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures except where the Council has voted by a simple majority against the said measures.

Textual Amendments

- F5** Substituted by [Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded \(94/C 241/08\)](#).
- F6** Substituted by [Decision of the Council of the European Union of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union \(95/1/EC, Euratom, ECSC\)](#).

[^{F1} Article 14

Member States shall bring into force the laws, regulations and administrative provisions necessary to ensure that the amendments in Annex II resulting from decisions referred to in Articles 4 (1) and (2), 5, 5a (3), 9 (3) and 10 can be implemented in their territory within a maximum period of eight months from their adoption, and within a shorter implementation period when required for urgent reasons of human health protection.

In order to safeguard legitimate expectations, Community legal implementing acts may provide for transitional periods for the implementation of certain maximum residue levels allowing the normal marketing of the harvested products.]

Textual Amendments

- F1** Substituted by [Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables](#).

Article 15

In order to improve upon the Community system introduced by this Directive, the Council, on the basis of a Commission report accompanied, if appropriate, by suitable proposals, shall re-examine this Directive by 30 June 1991 at the latest.

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Article 16

Member States shall bring into force not later than 30 June 1988 the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

[^{F7}However, the Federal Republic of Germany is hereby authorized to place on the market in the territory of the former German Democratic Republic, until 31 December 1992 at the latest, Annex I products whose hydrogen cyanide level exceeds that fixed in Annex II; this derogation shall apply only to products originating in the territory of the former German Democratic Republic.

The permitted levels may under no circumstances exceed those applicable under the legislation of the former German Democratic Republic.

The Federal Republic of Germany shall ensure that the products in question are not introduced into parts of the Community other than the territory of the former German Democratic Republic.]

Textual Amendments

- F7** Inserted by [Council Directive of 4 December 1990 on the transitional measures and the adjustments required to the Directives on plant health, seeds, plants and animal feedingstuffs and to the veterinary and zootechnical legislation as a result of German unification \(90/654/EEC\)](#).

Article 17

This Directive is addressed to the Member States.

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- (1) [^{F1}OJ No L 38, 11. 2. 1974, p. 31. Directive as last amended by Directive 96/25/EC (OJ No L 125, 23. 5. 1996, p. 35).
- (2) OJ No L 340, 9. 12. 1976, p. 26. Directive as last amended by Directive 96/32/EC (OJ L 144, 18. 6. 1996, p. 12).
- (3) OJ No L 350, 14. 12. 1990, p. 71. Directive as last amended by Directive 96/32/EC (OJ No L 144, 18. 6. 1996, p. 12).
- (4) OJ No L 175, 4. 7. 1991, p. 35. Directive as last amended by Directive 96/4/EC (OJ No L 49, 28. 2. 1996, p. 12).
- (5) OJ No L 49, 28. 2. 1996, p. 17.]
- (6) [^{F1}OJ No L 186, 30. 6. 1989, p. 23.
- (7) OJ No L 290, 24. 11. 1993, p. 14.]
- (8) [^{F1}OJ No L 230, 19. 8. 1991, p. 1. Directive as last amended by Directive 96/32/EC (OJ No L 144, 18. 6. 1996, p. 12).
- (9) OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Decision 96/139/EC (OJ No L 32, 10. 2. 1996, p. 31).]
- (10) [^{F1}OJ No L 221, 7. 8. 1986, p. 43. Directive as last amended by Directive 96/33/EC (OJ No L 144, 18. 6. 1996, p. 35).]
- (11) [^{F4}OJ L 184, 17.7.1999, p. 23.
- (12) OJ L 31, 1.2.2002, p. 1.]

Textual Amendments

- F1** Substituted by Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables.
- F4** Substituted by Council Regulation (EC) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (unanimity).