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COMMISSION DIRECTIVE 2004/6/EC

of 20 January 2004

derogating from Directive 2001/15/EC to postpone the application of the prohibition of trade to certain products

(Text with EEA relevance)

(OJ L 15, 22.1.2004, p. 31)

Amended by:

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Commission Directive 2007/26/EC of 7 May 2007

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COMMISSION DIRECTIVE 2004/6/EC

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derogating from Directive 2001/15/EC to postpone the application of the prohibition of trade to certain products

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/398/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses ⁽¹⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) Commission Directive 2001/15/EC of 15 February 2001 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses ⁽²⁾ specifies certain categories of substances and mentions for each of them the chemical substances that may be used in the manufacture of foodstuffs for particular nutritional uses. It provides that Member States are to prohibit trade in products not complying with the Directive with effect from 1 April 2004.
- (2) At the time of the adoption of Directive 2001/15/EC a number of substances added for specific nutritional purposes to some foods for particular nutritional uses, which are marketed in some Member States, could not be included in the Annex to that Directive because they had not been evaluated by the Scientific Committee on Food (SCF).
- (3) While the evaluation of those substances is being completed by the European Food Safety Authority their use should continue to be permitted in the manufacture of products marketed before the entry into force of this Directive.
- (4) The date of 1 April 2004 provided for in Article 3(b) of Directive 2001/15/EC makes it necessary that the present Directive should be transposed within a short deadline.
- (5) Therefore, a derogation from Directive 2001/15/EC should be provided for.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from point (b) of the second subparagraph of Article 3 of Directive 2001/15/EC in so far as the requirements of the first subparagraph of Article 1(1) of the Directive apply and until ►**M1** 31 December 2009 ◀ Member States may continue to allow in their territory trade in products containing the substances listed in the Annex to this Directive provided that:

- (a) the European Food Safety Authority has not given an unfavourable opinion in respect of the use of the substance in the manufacture of

⁽¹⁾ OJ L 186, 30.6.1989, p. 27. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 52, 22.2.2001, p. 19.

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foods for particular nutritional uses to which Directive 2001/15/EC applies;

- (b) the substance in question is used in the manufacture of one or more foods for particular nutritional uses marketed in the Community on the date of entry into force of this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 March 2004 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

*ANNEX***SUBSTANCES THAT MAY BE ADDED FOR SPECIFIC NUTRITIONAL PURPOSES TO FOODS FOR PARTICULAR NUTRITIONAL USES COVERED BY DIRECTIVE 2001/15/EC****Category 1. Vitamins**

VITAMIN E

- D-alpha-tocopheryl polyethylene glycol 1000 succinate

Category 2. Minerals

BORON

- boric acid
- sodium borate

CALCIUM

- amino acid chelate
- pidolate

CHROMIUM

- amino acid chelate

COPPER

- amino acid chelate

IRON

- ferrous hydroxide
- ferrous pidolate
- amino acid chelate

SELENIUM

- enriched yeast

MAGNESIUM

- amino acid chelate
- pidolate

MANGANESE

- amino acid chelate

ZINC

- amino acid chelate