II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 4 March 1991

amending Directive 74/63/EEC on undesirable substances and products in animal nutrition

(91/132/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Directive 74/63/EEC (4), as last amended by Commission Directive 87/238/EEC (5), expressly excludes pesticide residues from its field of application;

Whereas the presence of pesticide residues in feedingstuffs may, in the same way as the presence of residues of certain products and substances which are already subject to control, entail risks for human health, since in general toxic substances or preparations with dangerous effects are involved;

Whereas it is advisable to disregard the fact that pesticides — unlike most of the undesirable substances and products for which rules have hitherto been adopted — are used deliberately by man to protect plant products, since they are not added to feedingstuffs or to the components thereof; whereas, nevertheless, their possible presence constitutes a source of danger in the same way as that of the substances and products already covered by Directive 74/63/EEC;

Whereas, for this reason, pesticides should be used in such a way as not to involve any danger for human health;

Whereas, insofar as a few Member States have already laid down maximum permitted levels for certain pesticide residues, these levels differ and constitute obstacles to the free circulation of feedingstuffs within the Community; whereas it is therefore desirable to approximate the existing provisions by inserting them into the abovementioned Directive, which is the appropriate framework for this purpose;

Whereas, in an initial stage, it would appear justifiable to fix in respect of feedingstuffs maximum levels for a group of very persistent and harmful active substances which are or have been used in pesticides, namely organochlorine compounds; whereas Member States may therefore maintain the maximum levels they have fixed for residues of pesticides other than those listed in Part B of Annex I until a Community decision is taken in accordance with the provisions laid down for amendment of the Annexes;

Whereas by its Judgment handed down on 16 November 1989 in Case 11/88 the Court of Justice declared void Directive 87/519/EEC (6); whereas it is therefore necessary to adopt a new Directive on the appropriate legal basis,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 74/63/EEC is hereby amended as follows:

1. Article 1 (2) (c) shall be replaced by the following:

   '(c) the fixing of maximum permitted levels for pesticide residues on and in products intended for animal feeding, in as much these residues are not listed in Part B of Annex I.'

2. The following headings shall be added to Part B of Annex 1:

(1) OJ No C 210, 23. 8. 1990, p. 5.
(2) OJ No C 48, 25. 2. 1991.
(3) OJ No C 31, 6. 2. 1991, p. 44.
(4) OJ No L 38, 11. 2. 1974, p. 31.
(5) OJ No L 110, 25. 4. 1987, p. 25.
(6) OJ No L 304, 27. 10. 1987, p. 38.