



Brussels, 18.6.2020  
C(2020) 4192 final

**COMMISSION DECISION**

**of 18.6.2020**

**approving the agreement with Member States on procuring Covid-19 vaccines on behalf  
of the Member States and related procedures**

## COMMISSION DECISION

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### **approving the agreement with Member States on procuring Covid-19 vaccines on behalf of the Member States and related procedures**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union<sup>1</sup>, and in particular Article 4 paragraph 5, point (b) thereof,

Whereas:

- (1) Article 4 paragraph 5, point (b) of the ESI Regulation provides that the Commission may grant emergency support in the form of procurement on behalf of the Member States based on an agreement between the Commission and Member States.
- (2) On 12 June 2020 the Council of Ministers for Health agreed on the need for joint action to support the development and deployment of a safe and effective vaccine against COVID-19 by securing rapid, sufficient and equitable supplies for Member States.
- (3) In order to implement such action, the Commission has offered to run a single central procurement procedure on behalf of all Member States, with a view to signing EU-level Advance Purchase Agreements (“APAs”) with vaccine manufacturers. Those APAs would include up-front EU financing to de-risk essential investments in order to increase the speed and scale of manufacturing successful vaccines (“Vaccine Instrument”). In return, the APAs would provide the right – or under specific circumstances the obligation – to Participating Member States to buy a specific number of vaccine doses within a given timeframe and at a given price.
- (4) On that basis, the Commission and the participating Member States have negotiated an Agreement, which sets out the practical modalities of the procurement procedure that will be conducted by the Commission, as well as the reciprocal commitments of the parties under this Agreement. The Commission should approve the Agreement reached with the participating Member States and authorise the Commissioner in charge of Health and Food Safety to sign it on the Commission’s behalf.
- (5) On the basis of this Agreement, and in order to run the procurement procedure centrally and efficiently, the Commission should set up a steering board, which should assist and provide guidance throughout the evaluation process, while the Commission retains exclusive responsibility over the process. The steering board, which will be co-chaired by the Commission and a Participating Member State with experience in the negotiations and who has production capacities for vaccines, will include senior

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<sup>1</sup> OJ L 70, 16.3.2016, p.1, as amended by Council Regulation (EU) 2020/521 of 14 April 2020 activating the emergency support under Regulation (EU) 2016/369, and amending its provisions taking into account the COVID- 19 outbreak, OJ L 117, 15.4.2020, p. 3.

officials from all Participating Member States to assist and provide guidance throughout the evaluation process.

- (6) For the purpose of conducting and completing the procurement procedure, the Commission will aim to negotiate APAs directly. In view of their importance in the implementation of the Vaccine Instrument, these APAs will be approved for signature on behalf and in the name of the participating Member States by a separate individual Commission decision.
- (7) In certain instances, where it is strictly necessary, the Commission can sign on behalf of the Member States intermediary documents enabling the start, continuation and completion of the negotiations. Where those documents set terms and conditions of the final APAs, or otherwise contain legally binding obligations, those documents will also have to be approved by the Commission for signature on behalf and in the name of the participating Member States,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

- (1) The Commission approves the Agreement in Annex 1 to this decision to be signed with Member States with a view to signing EU-level Advance Purchase Agreements (“APAs”) with vaccine manufacturers.
- (2) The Member of the Commission with responsibility for Health and Food Safety is authorised to sign the Agreement in Annex 1 to this decision.

#### *Article 2*

- (1) A Steering Board is hereby set up pursuant to the signature of the Agreement in Annex 1. The Steering Board shall be responsible for steering matters in accordance with the Agreement in Annex 1.
- (2) The Steering Board shall adopt its own Rules of Procedure.

#### *Article 3*

As regards the approval of APAs or intermediary documents that set terms and conditions of the APAs or otherwise contain legally binding obligations, the Commission will exercise itself the powers it has delegated, in line with Article 4.2 of the Internal Rules<sup>2</sup>.

Done at Brussels, 18.6.2020

*For the Commission*  
*Stella KYRIAKIDES*  
*Member of the Commission*

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<sup>2</sup> Commission decision C(2018) 5120 of 3.8.2018 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.