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Health and Food Safety Directorate General

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Standing Committee on Plants, Animals, Food and Feed

Section *Phytopharmaceuticals – Pesticide Residues*

30 March 2023

CIRCABC Link:

<https://circabc.europa.eu/ui/group/95a86e0e-0cfe-4354-8d9f-c447c6e85c1b/library/b7d9393f-7cfc-4602-9c7f-5121cf1b690c?p=1>

SUMMARY REPORT

A.01 France national interim emergency measure to ban the placing on the market of cherries from cherry trees treated with phosmet (Article 54 of Regulation (EU) No 178/2002).

The Committee discussed the French national interim emergency measure taken on 16 March 2023 and published on 25 March 2023, banning the placing on the French market of cherries imported from countries authorising the use of plant production products containing phosmet on cherry trees¹. In line with Article 54 of Regulation (EC) No 178/2002 (General Food Law), a meeting of this Committee had to be organised within 10 working days from the date of notification with a view of the amendment, abrogation or extension of the French national measure.

France presented the measure, which is valid for one year from 16 March 2023, and clarified that it does not concern organic cherries. A list of third countries authorising the use of plant production products containing phosmet on cherry trees will be published shortly.

The Commission reiterated its views, presented at the meeting of this Committee held on 13-14 February 2023, and in writing to the Member States thereafter, that an EU wide emergency measure is unnecessary. Indeed, rapid action on phosmet had already been taken at EU level with the regular measure voted on 14 February 2023 and expected to be adopted in mid-May 2023 for application in mid-August 2023, lowering all MRLs for phosmet to the Limit of Quantification (LOQ) for all products, not only for cherries. The Commission is of the view that under the subsequent MRL process and within the context of the regulatory procedure with scrutiny the fastest possible action had been taken. The Commission reminded that this opinion had been broadly supported by Member States.

The Commission noted an inaccuracy in the text of the French measure, which states that the lowering of the MRLs of phosmet on cherries has not yet been decided by the Commission. The Commission clarified that, while the draft Regulation is still in the

¹ Arrêté du 16 mars 2023 portant suspension d'introduction, d'importation et de mise sur le marché à titre gratuit ou onéreux en France de cerises fraîches destinées à l'alimentation produites dans un pays autorisant le traitement des cerisiers avec des produits phytopharmaceutiques contenant la substance active phosmet (AGRG2306968A)

regulatory process and indeed not yet adopted, a decision and a vote at this Committee had already been taken.

The Commission asked France to clarify whether France intends to withdraw its measure once the Regulation lowering MRLs for phosmet will be applicable, i.e., in mid-August 2023, following point 3 of Article 54 of Regulation (EC) No 178/2002. France confirmed this would be the intention but that procedural steps were not yet defined. France will get back to the Commission on this point.

Following the proposal of the Commission, the Committee decided to take note of the French measure and not to take any further action at this moment.

Section B Draft(s) presented for an opinion

B.01 Exchange of views and possible opinion of the Committee on a draft Commission Regulation (EU) .../...amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for nicotine in or on certain products.

(PLAN/2023/627)

The Commission outlined the draft Regulation (Rev. 4) and its contents.

The Commission recalled that EFSA had very recently re-assessed the risk for consumers related to the existing MRLs for nicotine in rose hips, teas and capers based on new data, and that a new statement by EFSA was recently published². In this statement, EFSA concluded that the existing MRL for teas does not pose risks for EU consumers, contrary to the previous EFSA risk assessment in which consumption data had been used that were later examined and found to not accurately reflect exposure of Irish children, leading to an overestimation of the risk. Therefore, transitional arrangements for teas produced before the application date of the modified MRLs included in Regulation (EU) 2023/377 can now be granted. The draft Regulation PLAN/2023/627 provides for such transitional arrangements to apply as from the first day of application of Regulation (EU) 2023/377 (14 September 2023). The Commission recalled that, even though no risk was identified for nicotine in teas, the lowering of the temporary MRL for nicotine in teas that was provided by Regulation (EU) 2023/377 will be maintained, as it was based on monitoring data on the basis of the As Low As Reasonably Achievable (ALARA) principle.

In addition, after the adoption of Regulation (EU) 2023/377, the Commission had received new information by the relevant EU Reference Laboratory (EURL) pointing out that the limit of quantification (LOQ) for seed and fruit spices may be higher than the new temporary MRLs established by Regulation (EU) 2023/377. Therefore, the draft Regulation sets the temporary MRLs for those products at the proposed LOQ (0.05 mg/kg). As regards cinnamon, the EURL have submitted to the Commission new specific monitoring data indicating that residues may occur in this product at higher levels than the temporary MRL established by Regulation (EU) 2023/377. Based on those more specific data, the temporary MRL for cinnamon is proposed to be set at a level of 0.2 mg/kg, corresponding to the 95th percentile of all the sample results. The new MRLs for seed and fruit spices will become applicable on 15 September 2023.

² European Food Safety Authority. Statement on the revised targeted risk assessment for certain maximum residue levels for nicotine. EFSA Journal 2023;21(3):7883

One Member State requested clarification concerning the reasoning behind the different application dates for the different provisions of the proposed draft Regulation. The Commission explained that, due to the modalities of functioning of the pesticides database (which is used to create draft Regulations), it is technically not possible to set the application date for this draft Regulation to the same date as the application date of Regulation (EU) 2023/377 as this would result in de facto “cancelling” the changes introduced by this draft Regulation (the database gives priority to measures that are not lowering MRLs as compared to those lowering them, as Regulation (EC) 2023/377). Therefore, it was necessary to set the application date of PLAN/2023/627 on the following day. It is not expected that this would create issues for enforcement authorities. Transitional arrangements for nicotine in teas, on the other hand, will apply on the same application date as Regulation (EU) 2023/377, in order to avoid any potential trade disruptions. The Commission also clarified that draft Regulation PLAN/2023/627 does not modify the provisions implemented by Regulation (EU) 2023/377 as regards the transitional arrangements granted to the other products for which MRLs were lowered by that Regulation.

One Member State requested the Commission to confirm if the new temporary MRLs that were established for seed spices, fruit spices and cinnamon were safe for consumers. The Commission confirmed that the existing (higher) MRLs for these crops were assessed by EFSA at the time of their establishment, and EFSA had concluded they were safe³. In addition, the Commission has informally asked EFSA to perform a new risk assessment using PRIMo 3.1 for the newly proposed ones, and EFSA had confirmed that no risks for consumers are to be expected.

The draft Regulation (Rev. 4) was presented for vote.

Vote taken: Favourable opinion.

³ European Food Safety Authority. Reasoned Opinion on the setting of temporary MRLs for nicotine in tea, herbal infusions, spices, rose hips and fresh herbs. EFSA Journal 2011;9(3):2098