

Pesticides: maximum levels of residue in or on food and feed of plant and animal origin (repeal. Directives 76/895/EEC, 86/362/EEC, 86/363/EEC, 90/642/EEC, amend. Directive 91/414/EEC)

2003/0052(COD) - 19/07/2004 - Council position

The Council's common, adopted by unanimity, broadly accords with the positions taken by the Commission and the Parliament. It confirms the objectives and most of the arrangements proposed by the Commission and supported by the European Parliament as well as including a large number of the amendments adopted at first reading by the European Parliament. Notably, the Council agreed with a series of parliamentary amendments aiming to ensure the smooth functioning of the new procedures and to increase consistency between the new Regulation and other Community legislation. In addition, the Council felt that it was appropriate to introduce further amendments, for example, to allow Member States the flexibility to deal with MRL exceedences that arise in certain exceptional cases. The Council also reordered and reformatted parts of the text of the Regulation so as to clarify the roles of the Member States, EFSA and the Commission and to separate transitional provisions from the standard procedures under the new regime.

More specifically, the main amendments introduced by the Council concern the following issues :

- Application Procedure: the Respective Roles of the EFSA and the Member States : although the Commission had foreseen an exclusive role for EFSA in scientific evaluation work and the setting of MRLs, the Council agreed with the Parliament that Member States should perform a preliminary analysis of MRL applications in line with established procedures under Directive 91/414/EEC. In addition, the Council agreed that a copy of MRL applications received by Member States should immediately be sent to the Commission and to EFSA.

- Procedure for Routine Work Performed by EFSA : the Council introduced a new article designed to avoid unnecessary consultation of scientific bodies on matters of routine, i.e. in cases where EFSA issues opinions purely based on well established scientific principles.

- Administrative Review : a new article was added with a view to providing a form of legal redress

regarding decisions taken by EFSA and also in the event of non-action by EFSA.

- Time Scale and Transition to the New Procedures : in order to ensure a smooth transition to the new provisions, the Council followed the Parliament in setting down specific deadlines for the completion of the principal technical annexes, which will set out a list of harmonised MRLs (Annex II), a list of harmonised temporary MRLs (Annex III), and a list of active substances for which no MRLs are required (Annex IV). In the same spirit, the Council also introduced a deadline for drawing up the annex listing the products to which harmonised MRLs will apply (Annex I). Like Parliament, the Council considered that the Regulation should not apply in full until after the crucial annexes have

been drawn up.

- Possibility to Extend the Validity of Temporary MRLs : in order to facilitate a smooth transition to a fully harmonised regime (e.g. where Member States indicate that extra time is required to complete scientific studies on substances that have been authorised nationally), the Council decided that it

should be possible for temporary MRLs, which will normally be valid for one year, to be maintained in Annex III for up to three additional years in certain cases.

- The Use of Pesticides for Post-Harvest Treatment : a derogation was introduced in order to provide for the practice of post-harvest fumigation of products.

- The Use of Pesticides in Exceptional Circumstances : in order to provide for exceptional circumstances, emergency provisions were introduced allowing a Member State to authorise the placing on the market and /or the feeding to animals within its territory of food or feed that is not in compliance with the MRLs laid down in the Regulation. Such authorisations are to be notified to the other Member States, the Commission and EFSA, with a view to setting temporary MRLs and taking any other necessary actions. Such authorisations can only be granted provided that the treated food or feed does not constitute an unacceptable risk to consumers.

- Definitions : the Council added two new definitions, namely, "critical GAP" (i.e. the Good Agricultural Practice that forms the basis for a harmonised MRL under the Regulation) and "CXL" (i.e. an MRL set by the Codex Alimentarius Commission), and deleted the definition of "composite foodstuffs." In addition, the Council followed the European Parliament in clarifying the definition of "pesticide residues".

Lastly, it should be noted that further discussion is needed, in particular, on issues associated with risk assessment, and on provisions concerning the use of plant protection products, where Council was unable to agree to a number of Parliament's amendments at this stage. Such items concern, in particular, approaches to exposure assessment in the context of MRL-setting, considerations surrounding the most appropriate way of providing information to the public, and the drafting of provisions concerning good agricultural practice and pest management.