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COUNCIL DIRECTIVE

of 24 July 1986

on the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin

(86/363/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 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 crop and animal production play a very important role in the Community;

Whereas the yield from that production is continually affected by harmful organisms and weeds;

Whereas it is absolutely essential to protect plants, plant products and livestock against these organisms, not only to prevent a reduction in yield but also to increase agricultural productivity;

Whereas one of the most important methods of protecting plants, plant products and livestock from the effects of these harmful organisms is the use of chemical pesticides;

Whereas, however, these pesticides do not have only a favourable effect on plant and animal production, since they are generally toxic substances or preparations with dangerous side-effects;

Whereas a large number of these pesticides and of their metabolites or breakdown products may have harmful effects on consumers of plant and animal products;

Whereas these pesticides and the contaminants which may accompany them can present dangers for the environment and indirectly affect humans through animal products;

Whereas, in order to deal with these dangers, several Member States have already fixed maximum levels for certain pesticide residues in and on foodstuffs of animal origin;

Whereas the differences which exist between Member States with regard to the maximum permissible levels for pesticide residues can help to create barriers to trade and thus hinder the free movement of goods within the Community;

Whereas, for this reason, in an initial stage, maximum levels should be fixed for certain organochlorine compounds in meat and meat products and milk and milk products, which must be observed when these products are put into circulation;

Whereas, moreover, observance of the maximum levels will ensure that the goods can circulate freely and that the health of consumers is properly protected;

Whereas at the same time the Member States should be enabled to authorize the monitoring of levels of pesticide residues in foodstuffs of animal origin produced and consumed in their territory by a monitoring system and related measures so as to provide safeguards equivalent to those resulting from the levels laid down;

Whereas it is normally sufficient to apply check sampling to fresh milk or frozen cream at the dairy or when it is put on sale to the final consumer; whereas, however, Member States should be authorized also to apply check sampling to fresh milk and fresh cream at an earlier stage;

Whereas it is not necessary to apply this Directive to products intended for export to third countries;

Whereas Member States should be allowed to reduce temporarily the levels laid down if they unexpectedly prove to be dangerous to human or animal health;

Whereas it is appropriate in that case to establish close cooperation between the Member States and the Commission within the Standing Committee on Plant Health;

Whereas, in order to guarantee compliance with this Directive when the foodstuffs in question are put into circulation, the Member States must provide for suitable control measures;

Whereas Community methods of sampling and analysis should be established to be used at least as reference methods;

Whereas methods of sampling and analysis are technical and scientific matters, which should be determined by means of a procedure involving close cooperation between the Member States and the Commission within the Standing Committee on Plant Health;

Whereas Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat (1), as last amended by Regulation (EEC) No 3768/85 (2), Council Directive 72/462/EEC of 12 December 1972 on health and veterinary problems upon importation of bovine animals and swine and fresh meat from third countries (3), as last amended by Regulation (EEC) No 3768/85, and Council Directive 85/397/EEC of 5 August 1985 on health and animal-health problems affecting intra-Community trade in heat-treated milk (4), as amended by Regulation (EEC) No 3768/85, provide for the fixing of permitted limits for pesticides with regard respectively to fresh meat sent from one Member State to another, fresh meat imported from third countries and heat-treated milk sent from one Member State to another, and for the laying down of the required methods of analysis; and whereas maximum residue levels laid down in this Directive should also apply for the purposes of those three Directives;

Whereas it is appropriate that Member States make an annual report to the Commission on the results of their control measures so as to enable information concerning levels of pesticide residues to be collected for the Community as a whole;

Whereas the Council should review this Directive before 30 June 1991 with the aim of attaining a uniform Community system,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive concerns foodstuffs of animal origin listed in Annex I in so far as those foodstuffs may contain residues of pesticides listed in Annex II, and without prejudice to Community or national provisions concerning dietary or children's food.

Article 2

1. For the purposes of this Directive, 'pesticide residues' means residues of the pesticides and of their metabolites, and breakdown or reaction products listed in Annex II, which are present in or on the products referred to in Article 1.

2. For the purposes of this Directive, 'putting into circulation' means any handing over, whether or not for a consideration, of the products referred to in Article 1.

Article 3

1. Member States shall ensure that the products referred to in Article 1 do not, from the time they are put into circulation, present a danger to human health as a result of the presence of pesticide residues.

2. Member States may not prohibit or impede the putting into circulation within their territories of the products referred to in Article 1 on the grounds that they contain pesticide residues if the quantity of such residues does not exceed the maximum levels specified in Annex II.

Article 4

1. Member States shall prescribe that the products referred to in Article 1 may not contain, from the time they are put into circulation, levels of pesticide residues greater than those specified in Annex II.

2. Member States shall take all necessary measures to ensure, at least by check sampling, compliance with the maximum levels laid down in accordance with paragraph 1.

Article 5

1. In the case of the products referred to in Article 1 other than those imported from third countries or intended for other Member States, Member States may, by way of derogation from Article 4, continue to apply a system of monitoring already in force on their territory for the presence of pesticide residues together with any other measure in order to ensure that an effect equivalent to the levels of pesticide residues laid down in Annex II is obtained and to assess the total dietary exposure of their population to these residues, whatever their source. Such measures shall include regular representative surveys of the levels of these pesticide residues in typical diets.

2. Member States shall inform the other Member States and the Commission of any implementation of paragraph 1.

Article 6

Notwithstanding the provisions of Article 4, in the case of the products referred to in Annex I falling within heading No 04.01 of the Common Customs Tariff, the check sampling provided for shall be carried out at the dairy or, if they are not delivered to a dairy, at the point of supply to the consumer. Member States may nevertheless provide also for check sampling from the time these products are first put into circulation.

Article 7

Member States shall make a report to the Commission, before 1 August each year, on the results of the official checks, the monitoring carried out and the other measures taken pursuant to Article 4 and, where appropriate, Article 5, during the previous year.

Article 8

1. The methods of sampling and analysis necessary for carrying out the checks, monitoring and other measures provided for in Article 4 and, where appropriate, Article 5, shall be determined in accordance with the procedure laid down in Article 12. The existence of Community analysis methods, to be used in cases of dispute, shall not preclude the use by Member States of other scientifically valid methods capable of achieving comparable results.

2. Member States shall inform the other Member States and the Commission of the use of other methods pursuant to paragraph 1.

3. Paragraphs 1 and 2 shall apply without prejudice to Community veterinary inspection measures for checking pesticide residues in products referred to in Article 1, in particular those adopted pursuant to Directives 64/433/EEC, 72/462/EEC and 85/397/EEC.

Article 9

1. Where a Member State considers that a maximum level set in Annex II endangers human health, and therefore requires swift action to be taken, that Member State may temporarily reduce the level in its own territory. In that case, it shall immediately notify the other Member States and the Commission of the measures taken, attaching a statement of the reasons therefor.

2. If the situation envisaged in paragraph 1 arises, it shall be decided in accordance with the procedure laid down in Article 13 whether the maximum levels laid down in Annex II should be altered. Until such time as a decision is taken by the Council or the Commission in accordance with the abovementioned procedure, the Member State may maintain the measures which it has implemented.

Article 10

Without prejudice to Article 9, amendments to the maximum levels set in Annex II as a result of developments in scientific or technical knowledge shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

Article 11

The Council, acting unanimously on a proposal from the Commission, shall adopt, by means of Directives, any new list of products or any new list of pesticide residues in and on the products referred to in Article 1, and their maximum values.

Article 12

1. Where the procedure laid down in this Article is to be followed, the matters shall be referred without delay to the Standing Committee on Plant Health, hereinafter referred to as the 'Committee', by its chairman, either on his own initiative or at the request of a Member State.

2. Within the Committee, the votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on these measures within a time limit set by the chairman, having regard to the urgency of the matters to be examined. Opinions shall be delivered by a majority of 54 votes.

4. Where the measures are in accordance with the opinion of the Committee, the Commission shall adopt them and shall implement them forthwith. If the measures are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall immediately submit to the Council a proposal on the measures to be taken. The Council shall adopt the measures by a qualified majority.

If, within three months following the date on which the matter was referred to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures, except where the Council has voted by a simple majority against the said measures.

Article 13

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred without delay to the Committee by its chairman, either on his own initiative or at the request of a Member State.

2. Within the Committee, the votes of Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on these measures within two days. Opinions shall be delivered by a majority of 54 votes.

4. Where the measures are in accordance with the opinion of the Committee, the Commission shall adopt them and shall implement them forthwith. Where they are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall immediately submit to the Council a proposal on the measures to be taken. The Council shall adopt the measures by a qualified majority.

If, within 15 days of the date onwhich the matter was referred to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures, except where the Council has voted by a single majority against the said measures. Article 14

This Directive shall not apply to the products referred to in Article 1 where it can be established at least by appropriate evidence that they are intended for export to third countries.

Article 15

In order to improve upon the Community system introduced by this Directive, the Council, on the basis of a Commission report accompanied, if appropriate, by suitable proposals, shall re-examine this Directive by 30 June 1991 at the latest.

Article 16

Member States shall bring into force not later than 30 June 1988 the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

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

Article 17

This Directive is addressed to the Member States.

Done at Brussels, 24 July 1986.

For the Council

The President

A. CLARK

(1) OJ No C 56, 6. 3. 1980, p. 14.

(2) OJ No C 28, 9. 2. 1981, p. 64.

(3) OJ No C 300, 18. 11. 1980, p. 29.

(1) OJ No 121, 29. 7. 1964, p. 2012/64.

(2) OJ No L 362, 31. 12. 1985, p. 8.

(3) OJ No L 302, 21. 12. 1972, p. 28.

(4) OJ No L 226, 24. 8. 1985, p. 12.

ANNEX I

1.2 // // // CCT heading No // Description // // // ex 02.01 // Meat and edible offals of horses, asses, mules and hinnies, bovine animals, swine, sheep and goats, fresh, chilled or frozen // 02.02 // Dead poultry (that is to say, fowls, ducks, geese, turkeys and guinea fowls) and edible offals thereof (except liver), fresh, chilled or frozen // 02.03 // Poultry liver, fresh, chilled, frozen, salted or in brine // ex 02.04 // Other meat and edible meat offals, fresh, chilled or frozen, of domestic pigeons, domestic rabbits and game // ex 02.05 // Pig fat and poultry fat, fresh, chilled, frozen, salted, in brine, dried or smoked // 02.06 // Meat and edible meat offals (except poultry liver), salted, in brine, dried or smoked // 04.01 // Milk and cream, fresh, not concentrated or sweetened // 04.02 // Milk and cream, preserved, concentrated or sweetened // 04.03 // Butter // 04.04 // Cheese and curd // ex 04.05 // Birds' eggs and egg yolks, fresh, dried or otherwise preserved, sweetened or not, except eggs for hatching as well as eggs and egg yolks intended for purposes other than nutrition // 16.01 // Sausages and the like, of meat, meat offal or animal blood // 16.02 // Other prepared or preserved meat or meat offal // //

ANNEX II

1.2,4 // // // Pesticide residues // Maximum levels in mg/kg (ppm) // // 1.2.3.4 // // of fat, contained in meat, preparations of meat, offals and animal fats listed in Annex I under heading Nos ex 02.01, 02.02, 02.03, ex 02.04, ex 02.05, 02.06, 16.01 and 16.02 (1) // for raw cow's milk and whole cream cow's milk listed in Annex I under heading No 04.01; for the other foodstuffs in heading Nos 04.01, 04.02, 04.03 and 04.04 in accordance with (2) // of shelled fresh eggs, for birds' eggs and egg yolks listed in Annex I under heading No ex 04.05 // // // // // 1.2.3.4.5 // 1. aldrin 2. dieldrin (HEOD) // singly or combined, expressed as dieldrin (HEOD) // 0,2 // 0,006 1.2.3.4 // 3. chlordane (sum of cis- and transisomers and oxychlordane expressed as chlordane) // 0,05 // 0,002 // // 4. DDT (sum of DDT-, TDE-

and DDE-isomers, expressed as DDT) // 1 // 0,04 // // 5. endrin // 0,05 // 0,0008 // // 6. heptachlor (sum of heptachlor and heptachlor epoxide, expressed as heptachlor) // 0,2 // 0,004 // // 7. hexachlorobenzene (HCB) // 0,2 // 0,01 // // 8. hexachlorocyclohexane (HCH) // // // // 8.1. alpha-isomer // 0,2 // 0,004 // // 8.2. beta-isomer // 0,1 // 0,003 // // 8.3. gamma-isomer (lindane) // 2 ex 02.01 sheepmeat 1 other products // 0,008 // // // // //

(1) In the case of foodstuffs with a fat content of 10 % or less by weight, the residue is related to the total weight of the boned foodstuff. In such cases, the maximum level is one-tenth of the value related to fat content, but must be no less than 0,01 mg/kg.

(2) In determining the residues in raw cow's milk and whole cream cow's milk, a fat content of 4 % by weight should be taken as a basis. For raw milk and whole cream milk of another animal origin the residues are expressed on the basis of the fat.

For the other foodstuffs listed in Annex I under heading Nos 04.01, 04.02, 04.03 and 04.04:

- with a fat content of less than 2 % by weight, the maximum level is taken as half that set for raw milk and whole cream milk,

- with a fat content of 2 % or more by weight, the maximum level is expressed in mg/kg of fat. In such cases, the maximum level is 25 times that set for raw milk and whole cream milk.

C.J.C.F. Piatra Neamț