

Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels
for pesticide residues in and on cereals
Official Journal L 221, 07/08/1986 pp. 0037 - 0042

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 production plays 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 and plant products against these organisms, not only to prevent a reduction in yield or damage to the products harvested but also to increase agricultural productivity;

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

Whereas, however, these pesticides do not have only a favourable effect on plant 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 products;

Whereas these pesticides and the contaminants which may accompany them can present dangers for the environment;

Whereas, in order to deal with these dangers, several Member States have already fixed maximum levels for certain residues in and on cereals;

Whereas the differences which exist between Member States as regards 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 active substances in cereals, which must be observed when these products are put into circulation;

Whereas, moreover, observance of the maximum levels will ensure that the cereals 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 cereals produced and consumed in their territory by a system of surveillance and related measures so as to provide safeguards equivalent to those resulting from the levels laid down;

Whereas, in special cases, particularly of volatile liquid or gaseous fumigants, Member States should be authorized to permit for cereals, not intended for immediate consumption, higher maximum levels than those laid down, provided that a suitable check is made to ensure that these products are not placed at the disposal of the end user or consumer until the residue content thereof no longer exceeds the maximum permissible levels;

Whereas it is not necessary to apply this Directive to products intended for export to third countries, for the manufacture of products other than foodstuffs or for sowing;

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 products 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 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 shall apply, without prejudice to the provisions of Council Directive 74/63/EEC of 17 December 1973 on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs (1), as last amended by Directive 86/354/EEC (2) to the cereals listed in Annex I, in so far as these products may contain residues of pesticides listed in Annex II.

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 residues of pesticides 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

Member States may authorize the presence in and on the products referred to in Article 1 of the pesticide residues listed in Part B of Annex II in greater quantities than those specified therein, provided that those products are not intended for immediate consumption and an appropriate control system ensures that they cannot be made available to the end user or to the consumer, if they are supplied directly to the latter, until the residues no longer exceed the maximum levels

specified in Part B. They shall inform the other Member States and the Commission of the measures taken. These measures shall be applicable to all products covered thereby, irrespective of the origin of the products.

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 other methods used pursuant to paragraph 1.

Article 9

1. Where a Member State considers that a maximum level fixed 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, 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 matter 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. Where 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 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 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:

- (a) export to third countries;
- (b) the manufacture of products other than foodstuffs;
- (c) sowing.

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 L 38, 11. 2. 1974, p. 31.

(2) OJ No L 212, 2. 8. 1986, p. 27.

ANNEX I

1.2 CCT heading No Description ex 10.01 Wheat 10.02 Rye 10.03 Barley 10.04 Oats ex 10.05 Maize ex 10.06 Paddy rice ex 10.07 Buckwheat, millet, grain sorghum, triticale and other cereals

ANNEX II

PART A

1.2 Pesticide residues Maximum levels in mg/kg (ppm) 1.2.3 1. aldrin 2. dieldrin (HEOD)

singly or combined, expressed as dieldrin (HEOD) 0,01 1.2 3. total inorganic bromide, expressed in Br ions 50 4. carbaryl 1 : rice 0,5 : other cereals 5. chlordane (sum of cis- and trans-isomers)

0,02 6. DDT (sum of DDT-, TDB- and DDE-isomers, expressed as DDT) 0,05 7. diazinon 0,05
8. 1,2-dibromethane (ethylene dibromide) 0,01 (1) 9. dichlorvos 2 10. endosulfan (sum of alpha-
and beta-isomers and of endosulfan sulphate, expressed as endosulfan) 0,2 : maize 0,1 : other
cereals 11. endrin 0,01 12. heptachlor (sum of heptachlor and heptachlor epoxide, expressed as
heptachlor) 0,01 13. hexachlorobenzene (HCB) 0,01 14. hexachlorocyclohexane (HCH) 14.1.
alpha-isomer 14.2. beta-isomer sum 0,02 14.3. gamma-isomer (lindane) 0,1 (2) 15. malathion
(sum of malathion and malaoxon, expressed as malathion) 8 16. phosphamidon 0,05 17.
pyrethrins (sum of pyrethrins I and II, cinerins I and II, jasmolins I and II) 3 18. trichlorfon 0,1
(1) During a transitional period expiring no later than 30 June 1991, Member States whose
monitoring authorities are as yet unable to determine the residues at the set level of 0,01 mg/kg
in a routine manner may use methods with determination limits not exceeding 0,05 mg/kg.

(2) As from 1 January 1990. PART B

1.2 Pesticide residues Maximum levels in mg/kg (ppm) 1. bromomethane (methyl bromide) 0,1
2. carbon disulphide 0,1 3. carbon tetrachloride 0,1 4. hydrogen cyanide, cyanides expressed as
hydrogen cyanide 15 5. hydrogen phosphide, phosphides expressed as hydrogen phosphide 0,1