

Council Directive 76/895/EEC of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables  
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COUNCIL DIRECTIVE of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables (76/895/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,  
Having regard to the opinion of the European Parliament (1),  
Having regard to the opinion of the Economic and Social Committee (2),  
Whereas crop production plays an important role in the European Economic Community;  
Whereas the yield from that production is continually affected by harmful organisms of either animal or vegetable origin and also by viruses;  
Whereas it is absolutely essential to protect plants 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 and plant products from the effect of these harmful organisms is by 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 metabolized or breakdown products may have harmful effects on consumers of plant products;  
Whereas these pesticides should not be used in circumstances which could present a risk to human or animal life;  
Whereas different methods exist in certain Member States for avoiding this risk ; whereas some of these States have fixed different levels for the maximum content of the residues of certain pesticides in or on treated plants and plant products which must be observed when these products are put into circulation;  
Whereas the differences which exist between Member States for 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 certain maximum levels should be fixed which may be applied by the Member States;  
Whereas in fixing these maximum levels the requirements of plant production and the need to protect human and animal health must be reconciled;  
Whereas, initially, maximum levels should be fixed for the residues of certain pesticides in and on fruit and vegetables taking into account the fact that fruit and vegetables are generally intended for human consumption and, on occasions, for animal feed ; whereas these maximum levels must represent the lowest possible levels;  
Whereas the free circulation throughout the Community of products with a level of residue of certain pesticides less than or equal to the maxima fixed in Annex II should be assured ; whereas at the same time Member States should be allowed to permit the circulation in their territory, without discrimination and in cases where they consider this justified, of products which have a content higher than the said maxima either by fixing or by refraining from fixing maximum levels for them;  
Whereas it is not necessary to apply the provisions of this Directive to fruit and vegetables intended for export to third countries;

Whereas, nevertheless, the maximum levels fixed in Annex II could unexpectedly prove dangerous to human or animal health ; whereas Member States should therefore be allowed in that case to reduce temporarily these levels;

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

(1) OJ No C 97, 28.7.1969, p. 35. (2) OJ No C 40, 25.3.1969, p. 4. Whereas, where Member States fix maximum content levels for products marketed on their territory they should make certain that these levels are observed by means of official checks, consisting, at least, of sampling;

Whereas, in that case, the official checks should be made by using Community methods of sample-taking and Community methods of analysis;

Whereas the fixing of methods of sampling and analysis is a technical and scientific implementing measure ; whereas in order to facilitate the adoption thereof, the rules relating to those samples and analyses should be laid down by means of a procedure establishing close cooperation between the Member States and the Commission within the Standing Committee on Plant Protection;

Whereas any amendment to the Annexes should, in view of their basically technical nature, be made easier by an accelerated procedure,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

This Directive concerns products intended for human or, in exceptional cases, animal consumption listed under the Common Customs Tariff headings set out in Annex I and in or on which are found the pesticide residues listed in Annex II.

#### Article 2

1. For the purposes of this Directive "pesticide residues" means the residual traces of pesticides, as well as any of the toxic breakdown or metabolized 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 in return for payment or free of charge, of the products referred to in Article 1, after they have been harvested.

#### Article 3

1. Member States may not prohibit or impede the putting on the market within their territories of the products referred to in Article 1 on the ground that they contain pesticide residues if the quantity of these residues does not exceed the maximum levels laid down in Annex II.

2. Member States may, in cases where they consider this justified, authorize the circulation within their territories of products referred to in Article 1 which contain pesticide residues higher than those laid down in Annex II.

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

#### Article 4

1. Where a Member State considers that a maximum level fixed in Annex II might endanger the health of humans or of animals other than harmful organisms, that Member State may temporarily reduce that level in its own territory. In that case it shall immediately notify the other Member States and the Commission of the measures taken with a statement of the reasons therefor.

2. In accordance with the products laid down in Article 8, it shall be decided whether the maximum levels laid down in Annex II are to be amended. 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 5

Without prejudice to Article 4, the Council, acting on a proposal from the Commission, shall adopt amendments to be made to the Annexes. In making such amendments account shall be taken of technical and scientific progress as well as of the requirements of health and agriculture.

#### Article 6

1. Member States shall take all necessary measures to ensure compliance with any maximum levels laid down in accordance with this Directive by carrying out random checks.
2. Member States shall take all necessary measures to ensure that, where the products referred to in Article 1 are subject to the verification provided for in paragraph 1, the sampling and qualitative and quantitative analysis carried out for the purposes of identifying and estimating the amounts of pesticide residues shall be carried out according to the processes and methods to be laid down in accordance with the procedure provided for in Article 7.

#### Article 7

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 set up by Decision 76/894/EEC (1) (hereinafter called "the Committee") by its chairman, either on his own initiative or at the request of a Member State.  
(1) See page 25 of this Official Journal.
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 41 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 the measures, the Commission shall adopt the proposed measures and shall implement them immediately, except where the Council has rejected the said measures by a simple majority.

#### Article 8

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 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 two days. Opinions shall be delivered by a majority of 41 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 acted, the Commission shall adopt the proposed measures and shall implement them immediately, except where the Council has rejected the said measures by a simple majority.

#### Article 9

This Directive shall not apply to the products referred to in Article 1 where at least one appropriate element of proof can be brought that they are intended for export to third countries.

#### Article 10

This Directive shall apply without prejudice to Community provisions concerning common quality standards for fruit and vegetables.

#### Article 11

Member States shall bring into force the laws, regulations and administrative provisions needed to comply with this Directive within a period of two years following its notification and shall forthwith inform the Commission thereof.

#### Article 12

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1976.

For the Council

The President

A.P.L.M.M. van der STEE

ANNEX I List of products referred to in Article 1

>PIC FILE= "T0015869">

ANNEX II List of pesticide residues and maximum residual levels

>PIC FILE= "T0015870"> >PIC FILE= "T0015871">