

Mr. Ladislav Miko
Directorate General for Health and Food Safety
European Commission
1040 Brussels

Brussels, 14 September 2016

Ref: 51/16

Subject: excessive national restrictions on imports from countries where authorised PPPs can be used

Dear Mr. Miko,

We are writing to you on behalf of various European associations from the agri-food chain, representing the trade, crop protection industry, growers, processors, and the food industry to express our concerns about some restrictions applied on authorised Plant Protection Products (PPPs) at national level.

Our Associations are observing with particular apprehension the case of the emergency measure issued by France for cherries imported from Member States or third countries where dimethoate PPPs are authorised for use on cherry trees¹. This case may establish a precedent with disrupting impact for farmers and both on trade and the internal market.

Dimethoate is an active substance authorised in the EU until the 31st of July 2018 as per Regulation (EC) No 1107/2009, with Maximum Residue Levels (MRLs) set in the EU as per Regulation (EC) No 396/2005. The MRL on cherries has been temporarily established pending the finalisation of the review under article 12(2) of Regulation 396/2005 and approved by all Member States.

Nevertheless, the fact that a Member State decides to ban imports of products coming from countries where an authorised active substance can be used, and when the relevant EU MRLs for that substance are in place, is undermining the *acquis communautaire* and its legal certainty.

One of the fundamental principles of EU legislation is to guarantee protection of public and animal health as well as environment. Once the EU legislation is in place and ordinarily enforced, there should be no room for national restrictions challenging it. Enabling each and every Member State to introduce specific bans overstepping the margins provided by the EU legal framework is not acceptable. It makes not only

¹ Arrêté du 21 avril 2016 portant suspension d'importation et de mise sur le marché en France de cerises en provenance d'Etats membres ou de pays tiers où l'utilisation de produits phytopharmaceutiques contenant la substance active diméthoate est autorisée en traitement des cerisiers. NOR : AGRG1610662A – 22 avril 2016 – Journal Officiel de la République Française – Texte 50 sur 200.

worthless the joint efforts undertaken to reach a safe and well-functioning EU market but it also jeopardises the principle of free movement of goods, the first of the four fundamental freedoms upon which the entire EU construction is built.

Further, the ban established by French authorities is excessively broad in its scope. The text indeed states that the *“importation into and placing on the market in France of cherries from Member States of the European Union or third countries where the use of PPPs containing the active substance dimethoate is authorized for the treatment of cherry trees is suspended”*². Therefore, the ban is not only referring to cherries which have actually been treated with dimethoate, but to all cherries that are originated in areas where the substance is authorised for the use on them. The measure is thus excessively far-reaching, without any valid justification.

If such an approach was extensively applied to other products, the risk of incurring in trade disruptions and, consequently, in lack of agri-commodities in the EU would dramatically increase. In our opinion, this represents a bad use of the precautionary principle.

Finally, such a ban establishes trade restrictions highly incompatible with the World Trade Organisation (WTO) rules, which the EU is committed to comply with.

Our Associations deem necessary to draw the Commission’s attention on the above recalled implications for farmers and trade. In particular, we urge the Commission to:

- Ensure the respect of the principle of free movement of goods;
- Carefully consider the implications of such a situation for the well-functioning of the EU internal market of agri-commodities in general, as it may set a precedent that is not acceptable;
- Preventing the creation of trade barriers incompatible with WTO rules.

Trusting that you will keep in due consideration our concerns, we remain at your disposal for any further information you may need.

Thank you for your consideration.

Yours Sincerely,



Teresa Babuscio
Secretary General
COCERAL



Pekka Pessonon
Secretary General
COPA-COGECA



Jean-Philippe Azoulay
Director General
ECPA

² Arrêté NOR : AGRG1610662A, art. 1 « *L'importation et la mise sur le marché en France de cerises fraîches destinées à l'alimentation en provenance d'Etats membres de l'Union européenne ou de pays tiers où l'utilisation de produits phytopharmaceutiques contenant la substance active diméthoate est autorisée en traitement des cerisiers sont suspendues jusqu'au 31 décembre 2016* ».

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On behalf of the following associations:



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