



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
The Director

Brussels,
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Dear [REDACTED]

Thank you for your e-mail of 21 February 2019 (Int. Ref. ARES(2019)1097316) asking for advice on how to handle cases of alleged contamination of organic tea by anthraquinone.

This matter was subject to a preliminary discussion in the meeting of the Committee of Organic Production of 5 March 2019 and in that context, information on the detection of this substance reported in OFIS was provided.

According to Article 27 of Regulation (EC) 834/2007¹, Member States must set up a system of controls to verify the compliance of operators. The third paragraph of this Article establishes, among other requirements, that the nature and frequency of the controls is to be determined on the basis of an assessment of the **risk of occurrence of irregularities and infringements** as regards compliance with the requirements laid down in the referred Regulation.

According to the second subparagraph of Article 65(2) of Regulation (EC) No 889/2008 control bodies have to take and analyse samples in case where the use of products or techniques not authorised for organic production is **suspected**. In such a situation, no minimum number of samples to take and analyse applies. Furthermore, the third subparagraph of the same Article states that control bodies may take samples in **any other case** for detecting of products not authorised for organic production or possible contamination by products not authorised for organic production.

Moreover, Article 92 and 92(a) of Regulation (EC) No 889/2008 lay down specific provisions on exchange of information between control authorities, control bodies and the Commission concerning finding of irregularities or infringements affecting the organic status of products.

Under Article 92(a)(4) of the same Regulation a Member State receiving a notification relating to non-compliant products shall investigate the origin of the irregularities or infringements. It shall take appropriate action immediately and shall inform the Member State, which sent the notification, the other Member States and the Commission of the result of the investigation and of the action taken by replying to the original notification within 30 calendar days from the date of the original notification.

¹ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.07.2007, p. 1-23)

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On this basis, a general approach to downgrade a recurrent presence of a contaminant as “technically unavoidable” is not in line with the above-mentioned provisions.

With respect to the specific case of anthraquinone, I would bring your attention to this additional information: anthraquinone was an active substance used in Europe in plant protection products as birds repellent. The authorisations for plant protection products containing this substance were withdrawn pursuant to Commission Decision 2008/986/EC². Hence, Maximum Residues Levels (MRLs) have been set at the Limit of Quantification (LOQ), for teas MRL is set at the LOQ 0.02 ppm.

The Commission has further discussed anthraquinone residues with Member States in a meeting of June 2017 within the Standing Committee on Plants, Animals Food and Feed, the minutes are available here:

https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20170612_ppr_sum.pdf

To reply to your last question, I would recall that the operators shall apply the provisions of Article 26 of Regulation (EC) No 889/2008 and in particular Article 26 (1): “*Operators preserving products or producing processed feed or food shall establish and update appropriate procedures based on a systematic identification of critical processing steps. The application of those procedures shall guarantee at all times that preserved or processed products comply with the organic production rules.*” and Article 26(2): “*Operators shall comply with and implement the procedures referred to in paragraph 1. In particular, operators shall: (a) take precautionary measures to avoid the risk of contamination by unauthorised substances or products;*”. Hence, the operator has the responsibility to ensure that a critical processing step does not jeopardise the integrity of organic products.

The present opinion is provided on the basis of the facts as set out in your e-mail of 21 February 2019 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



Nathalie SAUZE- VANDEVYVER

² Commission Decision 2008/986/EC (OJ L 352, 31.12.2008, p. 48)