

## Dr. Monika Beutgen

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**Von:** [REDACTED]  
**Gesendet:** Montag, 30. September 2024 18:08  
**An:** [REDACTED]  
**Betreff:** WG: Verordnungsentwürfen der Kommission zu MOSH / MOAH |  
Kommentare der Teewirtschaft  
**Anlagen:** 2024-08-27\_THIE-comments on MOSH-MOAH.pdf

**Von:** [REDACTED] **Im Auftrag von:** [REDACTED]  
**Gesendet:** Dienstag, 27. August 2024 14:25  
**An:** [REDACTED]  
**Cc:** [REDACTED]  
**Betreff:** Verordnungsentwürfen der Kommission zu MOSH / MOAH | Kommentare der Teewirtschaft

Sehr geehrte [REDACTED]

bitte finden Sie anliegend die Kommentare unseres europäischen Verbandes Tea & Herbal Infusions Europe (THIE) zu den aktuellen

- (I) SANTE PLAN 2023/2345 Rev.2; Regulation on maximum levels of aromatic mineral oil hydrocarbons in food,
- (II) SANTE PLAN 2023/2727 Rev.0; Monitoring recommendation for mineral oil hydrocarbons in foodstuffs and
- (III) SANTE PLAN 2023/2726 Rev. 3; inclusion of sampling and analysis methods for MOAH in the regulatory text of the Sampling Regulation (EC) No 333/2007.

Gern stehen wir Ihnen für Rückfragen zur Verfügung.

Mit freundlichen Grüßen



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2020 haben sich der Deutsche Teeverband e.V. und die Wirtschaftsvereinigung Kräuter- und Früchtetee e.V. zum Deutschen Tee & Kräutertee Verband e.V. zusammengeschlossen. Was uns verbindet ist die Faszination einer unvergleichlichen Genusskultur, was uns antreibt ist die Leidenschaft für ein einzigartiges Naturprodukt.

# TEA & HERBAL INFUSIONS EUROPE

Formerly: European Tea Committee (ETC) and European Herbal Infusions Association (EHIA)



Hamburg, 27<sup>th</sup> August, 2024 - [REDACTED]

## **Comments by the Tea and Herbal Infusion Industry on the second revision of the Draft Commission Regulation on maximum levels of mineral oil aromatic hydrocarbons in food**

THIE as the representative of the European tea and herbal infusions industry has carefully reviewed:

- (I) SANTE PLAN 2023/2345 Rev.2; Regulation on maximum levels of aromatic mineral oil hydrocarbons in food,
- (II) SANTE PLAN 2023/2727 Rev.0; Monitoring recommendation for mineral oil hydrocarbons in foodstuffs and
- (III) SANTE PLAN 2023/2726 Rev. 3; inclusion of sampling and analysis methods for MOAH in the regulatory text of the Sampling Regulation (EC) No 333/2007.

THIE would like to take the opportunity to comment on some aspects of these Drafts.

### **Summary of comments:**

- THIE welcomes that no MLs are set for tea and HFI as MOSH/MOAH does not transfer into the brew.
- With regard to indicative levels, it should be clarified that they apply to the dried tea and herbal infusions.
- THIE would appreciate the re-introduction of this consideration into the recitals of the draft Regulation.
- With regard to the methods of sampling and analysis for MOSH, practicable LOQs are needed for tea and herbal infusions as the general LOQ of 0.5 mg/kg is not achievable due to matrix interferences.



### THIE's general position

Tea (*Camellia sinensis*) and herbal and fruit infusions (HFIs) are not consumed directly, rather they are only consumed as an infusion, which in turn is heavily diluted. UKTIA (UK Tea & Infusions Association) and STEPI (Syndicat du Thé et de Plantes à Infusion), two members of THIE, have conducted independent transfer studies of mineral oil hydrocarbons (MOH) in infusions of tea and HFIs. The two studies are summarised in our official position on MOSH/MOAH<sup>1</sup> and they demonstrate conclusively that **no transfer of MOH into the infusion was observed** when tea and HFI products are infused. After brewing, tea and HFI do **not contribute to consumer exposure** from MOH/MOH-analogues and therefore **do not pose any risk to the consumer**. Accordingly, no maximum levels for MOAH should be set for the product group tea and herbal and fruit teas, as was the case for PAHs, where no maximum levels were set due to a lack of transfer and thus relevance.

### Specific remarks on SANTE PLAN 2023/2727 Rev.0; Monitoring recommendation for mineral oil hydrocarbons in foodstuffs

#### → Recommendation number 1-3

##### HEREBY RECOMMENDS:

1. Member States, in collaboration with food business operators, should monitor during the years 2026, 2027, 2028 and 2029 the presence of MOSH and MOAH in food.
2. The monitoring of MOSH should include oilseeds, oil fruits, animal and vegetable based fats and oils, products based on or containing animal and vegetable fats and oils, tree nuts, tree nut based products, tree nut containing products, pulses, pulses based products, pulses containing products, cereal grains, cereal based products, cereal containing products, milk, dairy products, products containing dairy, cocoa beans, cocoa based products, cocoa containing products, sugar, sugar based products, sugar containing products, confectionary, coffee beans, tea and herbal infusions, spices, dried herbs, food for infants and young children, food supplements, processed vegetables, processed products containing vegetables, processed fruits, processed products containing fruits, poultry meat, processed meat and offal, products containing meat and offal, processed fish and seafood, products containing fish and other seafood, processed eggs, processed products containing eggs.
4. The monitoring of MOAH should include coffee, tea, herbal infusions, processed vegetables, processed products containing vegetables, processed fruits, processed products containing fruits, poultry meat, processed meat and offal, processed products containing meat and offal, processed fish and other seafood, processed products containing fish and other seafood, processed eggs, processed products containing eggs and cereal grains used for the production of beer or distillates.

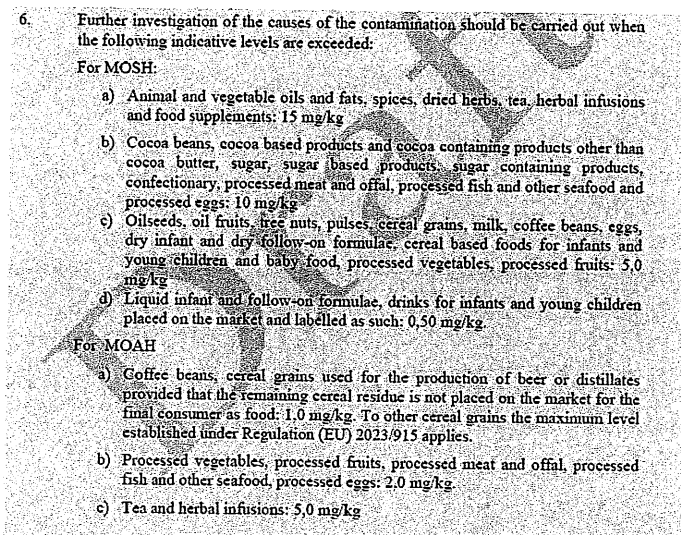
### Comment

The numbering of recommendations is incorrect, jumping from number 2 to 4 and repeating number 5.

<sup>1</sup> THIE Statement on MOSH/MOAH, 17.01.2024; [https://thie-online.eu/files/thie/docs/2024-01-17\\_THIE-Statement\\_MOSH-MOAH.pdf](https://thie-online.eu/files/thie/docs/2024-01-17_THIE-Statement_MOSH-MOAH.pdf)



## → Recommendation number 6



### Comment

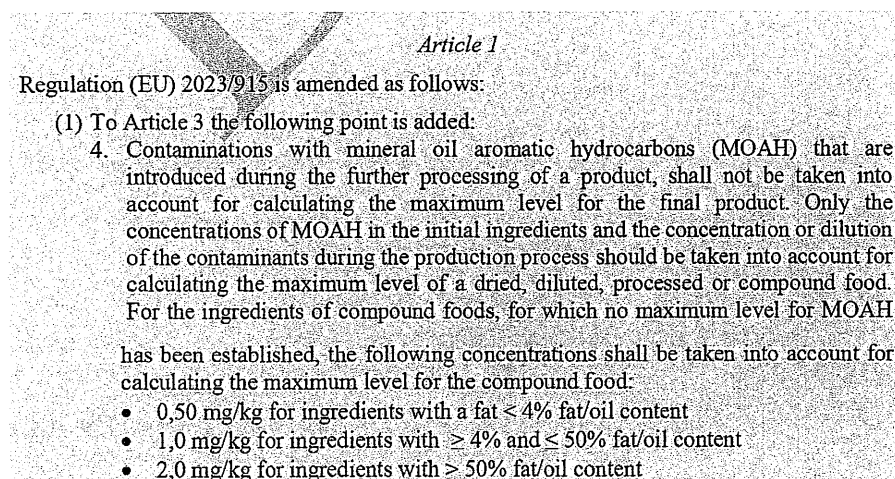
With regard to tea and HFIs, it should be specified that these indicative levels refer to the **dried product** and not the infusion. These indicative levels are used for official controls only. They are intended to ensure that the HACCP systems put in place for food safety management by FBOs are able to avoid the entry of MOSH/MOAH by implementing appropriate Good Hygiene Practise (GHP) and Prerequisite Programs. (PRPs). Accordingly, further investigations should be carried out when the indicative levels are exceeded. However, this recommendation does not apply to the food manufacturers' autocontrols for compliance of the product.

Indicative levels are independent of MLs as can be seen from the definition of "indicative values"; accordingly, the exceedance of an indicative value does not indicate that the product is not compliant. In the case of tea and herbal infusions this means that no maximum levels for MOAH apply.



## **Specific remarks on SANTE PLAN 2023/2345 Rev.2 of the Regulation on maximum levels of aromatic mineral oil hydrocarbons in food**

### **→ Article 1 (1)**



### **Comment**

As teas and HFIs are not listed in the Annex to the Regulation, no maximum levels apply for this food category. As explained in detail in our interpretation of the Contaminants Regulation (EU) 2023/915, 'herbal infusions' are to be regarded as food according to Annex I of Regulation (EU) 2023/915<sup>2</sup>. Maximum levels for spices, herbs and vegetables do not cover spices, herbs and vegetables for use in herbal infusions if not explicitly mentioned in the corresponding entry. Therefore, the phrase 'For ingredients of compound foods, for which no maximum level for MOAH has been established...' would not refer to spices, herbs or vegetables used as ingredient in herbal infusions if not explicitly specified in the according entry.

We would also like to highlight that it would be helpful, and counteract misinterpretation, if the fact that no transfer of MOSH/MOAH to the infusion takes place could be included in the recitals. The lack of transfer to the infusion of PAHs, for example, was listed in the first drafts but was deleted in the final version. As a result, the decision not to set maximum levels for tea and HFI for PAHs is no longer clearly comprehensible and presents the industry with avoidable difficulties.

<sup>2</sup> Interpretation of the Contaminants Reg. (EU) 2023/915 with regard to herbal infusions and tea, 18.01.2024; [https://thie-online.eu/files/thie/docs/2024-01-](https://thie-online.eu/files/thie/docs/2024-01-18%20New%20Contaminants%20Regulation%20FINAL.pdf)

18 Interpretation%20New%20Contaminants%20Regulation%20FINAL.pdf



**Specific remarks on SANTE PLAN 2023/2726 Rev. 3; inclusion of sampling and analysis methods for MOAH in the regulatory text of the Sampling Regulation (EC) No 333/2007**

→ Annex, C.3.2. Table 10

Table 10

Parameter	Criterion
Applicability	Foods specified in Regulation (EU) 2023/915
Specificity	Free from matrix or spectral interferences. For products that contain endogenous substances that might interfere with a gas chromatography separation, a confirmatory analysis on the basis of two dimensional gas chromatography is needed.
Recovery	80-110 % (The recovery can be lower than 80%, when applying a sample preparation with aluminum oxide for the determination of mineral oil saturated hydrocarbons or when performing a sample preparation with epoxidation for the analysis of mineral oil aromatic hydrocarbons.
Repeatability (RSD <sub>r</sub> )	≤ 15 %
Reproducibility (RSD <sub>R</sub> )	≤ 20 %
LOQ Food with a fat content of < 4 %	≤ 0.50 mg/kg
LOQ Food with a fat content of ≥ 4% and ≤ 50%	≤ 1.0 mg/kg
LOQ Food with a fat content of > 50 %	≤ 2.0 mg/kg

**Comments**

Based on the JRC guideline, an LOQ of 0.5 mg/kg would still apply for tea and HFI. HFI raw materials in particular pose a considerable issue with the current state of analysis. According to current statements by laboratories, it is not possible to reliably analyse MOAH with an LOQ of 0.5 mg/kg due to matrix interferences, including:

- Raw materials with a high essential oil content (terpene fractions) such as camomile, mint, fennel etc. are particularly affected.
- Tea can also be affected by high LOQ due to other matrix interferences.
- Realistic LOQs here are 1 mg/kg or 2 mg/kg, in exceptional cases even 5 mg/kg, but by no scientific means is 0.5 mg/kg achievable.