Sehr geehrte [redacted]

wir nehmen Bezug auf PLAN/2023/961 R8, der als G/SPS/N/EU/763 bei der WTO notifiziert wurde. Darin ist eine Absenkung der aktuellen Importtoleranz für Thiacloprid in Tee von 10 mg/kg auf 0,05* mg/kg vorgesehen. Die Absenkung wird als „provisorische Maßnahme" eingestuft bis eine abschließende Bewertung der EFSA vorliegt. Hintergrund sind mögliche endokrine Eigenschaften von Thiacloprid.

Bitte finden Sie anliegend die Stellungnahme unseres europäischen Verbandes. Die geplante Absenkung des Rückstandshöchstgehaltes hätte für die Branche dauerhafte Implikationen, die zu erheblichen Schäden würden – teilweise sogar existenzbedrohend für die Firmen sind. Somit kann die RHG-Absenkung keinesfalls als provisorisch bezeichnet werden.

Vor dem Hintergrund, dass die möglichen endokrinen Eigenschaften von Thiacloprid bereits seit mindestens 5 Jahren bekannt sind, ist nicht nachvollziehbar, dass nun auf einmal ein unmittelbarer Handlungsbedarf gesehen wird und keinerlei Übergangsregelungen vorgesehen sind. Dieses Vorgehen halten wir für unverhältnismäßig, insbesondere, da das BfR gerade in seiner Mitteilung 022/2024 vom 27.5.2024 schlussfolgert, dass es auch bei Substanzen mit endokrinen Eigenschaften Schwellenwerte gibt (https://www.bfr.bund.de/cm/343/hormonell-wirksame-chemikalien-eine-frage-der-dosis.pdf).
Insofern sind auch die Verzehrsmengen von Tee und die Tatsache, dass der Aufguss konsumiert wird, zu berücksichtigen.

Wir bitten Sie daher, sich für angemessene Übergangsmaßnahmen wie von unserem Dachverband THIE erbeten, einzusetzen.

Mit freundlichen Grüßen

DEUTSCHER TEE & KRÄUTERTEE VERBAND

[redacted]

tee • Deutscher Tee & Kräutertee Verband e.V.
German Tea & Herbal Infusions Association

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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)

European Commission
DG Health and Food Safety
[redacted]
Brussels
Belgium

Hamburg, 22nd May, 2024
[redacted]

via email to:
[redacted]

Thiacloprid in tea *(Camellia sinensis)*:

WTO Notification G/SPS/N/EU/7638 of PLAN/2023/961_Rev8 [...](2024) XXX draft

Dear [redacted]

We refer to the WTO Notification of the draft amending regulation PLAN/2023/961_Rev8 which foresees a provisional decrease of the MRL for thiacloprid in tea *(Camellia sinensis)* from currently 10 mg/kg to 0.05*mg/kg.

The tea industry would like to emphazise that it makes every effort to provide consumers with safe and high-quality tea products. Accordingly, the tea industry takes any possible health concerns with regard to thiacloprid very seriously. However, the measures taken should be proportionate and take into account the consequences for all involved.

Unfortunately, we feel that the current proposal is not proportionate and thus not in line with the requirements of Art. 7 of Reg. (EC) 178/2002. We request

- **a temporary maintenance of the current MRL for thiacloprid in tea of 10 mg/kg as import tolerance until an additional risk assessment by the Authority is available;**
- **in the alternative, to grant a transitional period of 2 years which allows to continue to market tea which was legaly imported into the Union before the new MRL applies and**
- **that Reg. (EC) No 396/2005 as it stood before being amended by the proposed regulation shall continue to apply to products which were placed on the market in the Union before the application of the new regulation.**

Reasons:

The tea industry welcomes the approach to ask the Authority for an additional assessment of thiacloprid taking into consideration the most recent Union criteria on endocrine disruptors and review the MRLs once the assessment by the Authority is concluded. We think that this is an appropriate sience based approach to clarify the situation. However, we feel that it is not proportionate to provisionally decrease the MRL for tea on basis of the currently available scientific information. The indication that the lowering of the MRLs shall be "provisional" which is

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also given in the WTO notification is misleading as a provisional decrease of MRLs is practicably not feasible.

A "provisional" lowering of the import tolerance for tea will lead to irreversible damage. Changing MRLs has always a longterm effect. A "provisional" change of MRLs is not realistic as the use of active substances and the according residues cannot just be switched on and off but require complex activities along the comlete supply chain – in particular for long-lasting products like tea which is a strictly third country product. According to Art. 7 (2) Reg. (EC) 178/2002 "Measures adopted on the basis of paragraph 1 shall be proportionate and no more restrictive of trade than is required to achieve the high level of health protection chosen in the Community, regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration." A decrease of an MRL claimed to be "provisional" which is in practice permanent is not in line with these requirements. Such a "provisional" measure lacks technical and economic feasibility. A later review of this measure as forseen in art 7 (2) second sentence is no more possible in this case as the measure taken is already a fait accompli.

As stated in the regulatory proposal, the Authority already mentioned possible concerns with regard to endocrine disrupting properties of the substance thiacloprid in its Peer review of the pesticide risk assessment of the active substance thiacloprid from January 2019. But no endocrine disruptor assessment was done at that time as other non-inclusion criteria for the substance were already met. No need for further action regarding an assessment of the substance with regard to possible endocrine disrupting properties has been seen for 5 years. On the contrary, the Authority was asked to provide a short-term (acute) dietary risk assessment for the MRLs for thiacloprid that are based on non-EU uses including tea. In this assessment from 2023 EFSA did not identify an acute risk for the consumers but concluded that further consideration by risk managers was required. Accordingly, a former version of the draft amending regulation also proposed maintaining the current import tolerance for tea of 10 mg/kg. If the concerns of EFSA regarding possible endocrine disrupting properties raised in 2019 were so severe why did the risk managers ask EFSA for a short-term (acute) dietary risk assessment instead of requesting an assessment regarding possible endocrine disrupting properties? Taking into consideration this history it is not comprehensible that the MRL shall now be suddenly lowered to 0.05* mg/kg without granting any transitional provisions. Based on this development history there cannot be an urgent need for legislative action now, even if the criteria for endocrine diruptors have been updated recently. Rather, the managements' approach has created confidence that a decision should only be made on the basis of a sound scientific assessment.

- **Temporary maintenance of the import tolerance for tea**

We refer to our letter of 01/03/2024 in which we already explained that the tea industry immediately started to look for alternatives for thiacloprid in tea (*Camellia sinensis*) in 2020 and requested a temporary maintenance of the current import tolerance for tea. Unfortunately, further time is needed to find and implement effective alternatives for thiacloprid. There is an essential use of thiacloprid to fight the mosquito bug in particular in India to avoid massive crop losses. The former alternatives for thiacloprid thiametoxam and clothianidin have already been banned. The now foreseen sudden decrease of the MRL for thiacloprid will undo all previous efforts to find effective solutions as tea growing countries will loose trust in the reliability of their European partners.

- **Transition period and marketing of products already placed on the market**

The necessity for appropriate transitional messures is reflected in the draft amending regulation. According to Reason (10) of the draft regulation "A reasonable period should be allowed to

elapse before the modified MRLs become applicable in order to permit Member States, third countries and food business operators to prepare themselves to meet the new requirements which will result from the modification of the MRLs." However, art. 2 does not provide any transitional measures. As teas are long-lasting goods and the way from the bush to the cup might take 3 years and even more this will lead to recalls from the shelves, destruction of considerable amounts of tea in the EU and give reason to public concerns with regard to the safety of tea in general. In order to avoid such a scenario the introduction of transitional measures is indispensable.

In conclusion, the current draft legislative proposal will

- lead to massive crop losses for tea in particular in India as no replacement for thiacloprid is available yet to fight the mosquito bug (*Helopeltis theivora*),;
- endanger the livelihood of numerous workers and small holders in India;
- interrupt longstanding supply chains for tea;
- damage sustainably the constructive cooperation with tea growing countries as they will loose trust in the reliability of the European legislative process and sell their teas to other markets than the EU which only counts for about 2,65% of the global tea market (issue of food security);
- cause shortages on the European market as Indian teas cannot be substituted by teas from other origins especially because India is the major supplier of black tea to Europe;
- threaten the existence of tea companies in Europe with a focus on Indian teas (e.g. the famous East Frisian Blend consists of more than 50 % black tea from Assam);
- cause severe economic damages in the EU tea market as the lack of transitional measures will result in recalls from the shelves and destruction of significant quantities of teas (issue of food waste);
- unsettle consumers with regard to the safety of tea independent of the outcome of the additional EFSA assessment and stimulate public concerns regarding tea.

The Summary Report of the SCoPAFF meeting of 22nd/23rd April, 2024 in which the draft amending regulation was discussed is not yet publicly available. Accordingly, we are not aware of the considerations of the Commission and the Member States which led to the WTO notification of this draft. We would appreciate if we could have a meeting on thiacloprid in tea – either in person or virtually – in order to learn more about the background of this decision and to explain our position in more detail. We kindly ask you to propose a possible date for a meeting.

Yours sincerely

Tea & Herbal Infusion Europe (THIE)