COMMISSION IMPLEMENTING DECISION (EU) 2021/7

of 5 January 2021

concerning the extension of the action taken by the Finnish Safety and Chemicals Agency permitting the making available on the market and use of the biocidal product Biobor JF in accordance with Article 55(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council

(notified under document C(2021) 7)

(Only the Finnish and Swedish texts are authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ([1]), and in particular Article 55(1), third subparagraph, thereof,

Whereas:

(1) On 6 May 2020 the Finnish Safety and Chemicals Agency ('the competent authority') adopted a decision in accordance with Article 55(1) first subparagraph of Regulation (EU) No 528/2012 to permit until 2 November 2020 the making available on the market and use by professional users of the biocidal product Biobor JF for the antimicrobial treatment of fuel tanks and fuel systems of aircraft ('the action'). The competent authority informed the Commission and the competent authorities of the other Member States about the action and the justification for it, in accordance with Article 55(1), second subparagraph, of that Regulation.

(2) According to the information provided by the competent authority, the action was necessary in order to protect public health. The microbiological contamination of aircraft fuel tanks and fuel systems can lead to malfunctions of the aircraft engine and endanger its airworthiness, thus endangering the safety of passengers and crew. The COVID-19 pandemic and the ensuing flight restrictions led to numerous aircraft being temporarily parked. The immobility of aircraft is an aggravating factor of microbiological contamination.

(3) Biobor JF contains 2,2'-(1-methyltrimethylenedioxy)bis-(4-methyl-1,3,2-dioxaborinane) (CAS number 2665-13-6) and 2,2'-oxybis (4,4,6-trimethyl-1,3,2-dioxaborinane) (CAS number 14697-50-8), active substances for use in biocidal products of product-type 6 as preservatives for products during storage as defined in Annex V to Regulation (EU) No 528/2012. As those active substances are not included in the work programme laid down in Annex II to Commission Delegated Regulation (EU) No 1062/2014 ([2]) for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012, they have to be assessed and approved before biocidal products containing them can be authorised at national or Union level.

(4) On 4 September 2020, the Commission received a reasoned request from the competent authority to extend the action in accordance with the third subparagraph of Article 55(1) of Regulation (EU) No 528/2012. The reasoned request was made on the basis of concerns that air transport safety might continue to be endangered by microbiological contamination of aircraft fuel tanks and fuel systems after the expiry of the temporary permit and the argument that Biobor JF is essential in order to control such microbiological contamination.

([1]) OJ L 167, 27.6.2012, p. 1.

([2]) Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

(5) According to the information provided by the competent authority, the only alternative biocidal product recommended by aircraft and engine manufacturers for the treatment of microbiological contamination was withdrawn from the market in March 2020 on account of severe engine behaviour anomalies noticed after the treatment with that product.

(6) As indicated by the competent authority, the mechanical treatment of microbiological contamination of aircraft fuel tanks and fuel systems is not always possible and agreed aviation procedures require the treatment with a biocidal product even when mechanical cleaning is possible. Moreover, mechanical treatment would expose workers to toxic gases and should therefore be avoided.

(7) According to the information provided by the competent authority, the manufacturer of Biobor JF has taken steps towards the regular authorisation of the product and an application for approval of the active substances it contains is expected to be submitted early 2021. The approval of the active substances and subsequent authorisation of the biocidal product would represent a permanent solution for the future, but a significant amount of time will be needed for the completion of these procedures.

(8) As the lack of control of microbiological contamination of aircraft fuel tanks and fuels systems might endanger the air transport safety and that danger cannot be adequately contained by using another biocidal product or by other means, it is appropriate to allow the competent authority to extend the action for a period not exceeding 550 days starting from the day following the expiry of the initial period of 180 days permitted in the decision of the competent authority of 6 May 2020.

(9) Considering that the action has lapsed since 3 November 2020, this Decision should have retroactive effect.

(10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

The Finnish Safety and Chemicals Agency may extend until 7 May 2022 the action to permit the making available on the market and use by professional users of the biocidal product Biobor JF for the antimicrobial treatment of fuel tanks and fuel systems of aircraft.

Article 2

This Decision is addressed to the Finnish Safety and Chemicals Agency.

It shall apply from 3 November 2020.

Done at Brussels, 5 January 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission