

Development of Legislation and Other Instruments

BPC-33: Minority opinion on BPC opinion on carbendazim in PT 7 and 10

In line with Sweden's policy to work for the removal of dangerous substances from treated articles, Sweden considers that a restriction should be placed on the use of articles treated with carbendazim-containing products in the form of a specific condition of the approval. Even if carbendazim will be approved in accordance with Article 89 of the Biocidal Products Regulation, product authorisation will be subject to the stringent restrictions laid out in Article 5(2). In addition, we believe that the use of articles treated with carbendazim should also be restricted.

The opinion states that leaching from the in-service life of applied products and treated articles (e.g. paints and plaster) for all outdoor uses pose unacceptable risks to the environment. This risk could not be mitigated according to the Assessment Report, which addressed normal uses of carbendazim. Restrictions on the use of products can be stipulated at product authorisation. However, restrictions on the use of all treated articles (both those produced within the EU and those imported from third countries) can only be regulated in accordance with Article 58(2) through the specification of a restriction at active substance approval, or through labelling according to Article 58(3). Since no other control of the exposure of the environment from leaching treated paints and plasters will be possible, we think that the specific condition should prohibit the use of such carbendazim-treated articles outdoors.

We note that the authorisation of products to treat articles will be restricted for use in Member States where at least one of the conditions set in Article 5(2) of Regulation (EU) No 528/2012 is met, according to the BPC opinion. However, the import of carbendazim-treated articles will not be restricted and, thus, it will be possible to be freely import or trade treated articles between any Member State, even ones that do not consider the conditions of Article 5(2) as being fulfilled. As the opinion stands, only a label phrase providing limited information will be required on treated articles and that will not be subject to regulatory scrutiny before the article is placed on the market. Since no product authorisation is necessary, there will neither be an evaluation of whether efficacy matches the label claim. This situation does not provide a high enough level of protection for the environment and does not provide a level playing field for EU and non-EU companies.

MelliId: MAG-0001, 2014-10-22

Swedish Chemicals Agency

<i>Mailing address</i>	<i>Visit & delivery</i>	<i>Invoicing address</i>	<i>Phone & fax</i>	<i>Internet</i>	<i>VAT No</i>
Box 2 SE-172 13 Sundbyberg Sweden	Esplanaden 3A SE-172 67 Sundbyberg Sweden	FE 124 SE-838 80 Frösön Sweden	Phone +46 8 519 41 100 Fax +46 8 735 76 98	www.kemi.se kemi@kemi.se	SE202100388001

From the harmonised classification of carbendazim we know that the substance fulfils two of the exclusion criteria. Based on what is known about its precursor thiophanate methyl, carbendazim may be suspected to also fulfil the exclusion criterion on endocrine-disrupting properties. Therefore, we consider that a condition regarding the placing on the market of treated articles is justified both on the grounds of Article 58(2) of the BPR and on the CA agreed position on the application of the provision. Specifically, we consider that both the first and the second bullet on what properties shall be regarded as a major concern¹ are met several times over.

¹ CA-March14-Doc.4.1 – Final NOTE ON THE PRINCIPLES FOR TAKING DECISIONS ON THE APPROVAL OF ACTIVE SUBSTANCES UNDER THE BPR