Commission Implementing Decision (EU) 2020/1119 of 27 July 2020 concerning the extension of the action taken by the United Kingdom Health and Safety Executive permitting the making available on the market and outdoor use of the biocidal product Ficam D in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council (notified under document C(2020) 4968) (Only the English text is authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2020/1119

of 27 July 2020

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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 the third subparagraph of Article 55(1) thereof, in conjunction with Article 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(2)],

Whereas:

(1) On 3 September 2019, the United Kingdom Health and Safety Executive (‘the ‘competent authority’) adopted, in accordance with the first subparagraph of Article 55(1) of Regulation (EU) No 528/2012, a decision to permit the making available on the market and outdoor use of the biocidal product Ficam D against Asian hornet nests until 1 March 2020 (‘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 the second subparagraph of Article 55(1) of that Regulation.

(2) According to the information provided by the competent authority, the action was necessary in order to protect animals and the environment, in particular honey bees and other beneficial insects. The Asian hornet (*Vespa velutina nigrithorax* de Buysson, 1905) is listed as an invasive alien species of Union concern in Commission Implementing Regulation (EU) 2016/1141[(3)] as there is scientific evidence which shows that it is likely to have a significant adverse impact on biodiversity or the related ecosystem services. More specifically, the Asian hornet is a threat to honey bees and other beneficial insects on which it preys, disrupting their ecological role.

(3) Article 17 of Regulation (EU) No 1143/2014 of the European Parliament and of the Council[4] requires Member States to swiftly apply eradication measures after a listed species has been detected on their territory at an early stage of invasion.

(4) Ficam D is a dusting powder containing bendiocarb as an active substance, which is approved for use in biocidal products of product-type 18 (insecticides, acaricides and products to control other arthropods) as defined in Annex V to Regulation (EU) No 528/2012. Ficam D was authorised under the UK's national biocides legislation and has been a central component in the UK's response to treating and incapacitating Asian hornet nests. The authorisation of Ficam D under Regulation (EU) No 528/2012 restricted its use to indoors only, due to potential concerns to the environment from the outdoor use.

(5) On 28 January 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 request was made on the basis of concerns that honey bees and other beneficial insects might be endangered by the Asian hornet beyond 1 March 2020 and taking into account that Ficam D is crucial in order to contain the danger posed by the Asian hornet.

(6) The competent authority has been seeking alternatives for the treatment of Asian hornet nests as well as alternatives to the direct treatment of the nests, for example baits. However, time is still needed for trials and analysis of the alternatives in order to confirm their viability and efficacy and identify the best alternative to Ficam D.

(7) Furthermore, according to the competent authority, initial investigations of alternatives show advantages of the treatment of Asian hornet nests with Ficam D over other alternatives. The treatment with Ficam D does not require repeated applications, thus preventing the release of queens capable of founding new nests; it does not agitate the hornets, which is important, especially when the treatment takes place in inhabited areas and it does not require the soaking of the nests, as liquid-based products do, which would cause the disintegration of the nests, making vital laboratory analyses, such as the genetic analysis to determine the relatedness of nests, very difficult or impossible.

(8) As the lack of control of the Asian hornet might endanger honey bees and other beneficial insects and as that danger cannot be adequately contained by other means, it is appropriate to allow the competent authority to extend the action under certain conditions.

(9) Considering that the action has lapsed since 2 March 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: