Commission Implementing Decision (EU) 2020/153 of 3 February 2020 prohibiting Lithuania to repeat granting authorisations under Article 53(1) of Regulation (EC) No 1107/2009 for the plant protection products containing the active substance thiamethoxam for use on spring rape against Phyllotreta spp. and/or Psylliodes spp. (notified under document C(2020) 464) (Only the Lithuanian text is authentic) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2020/153

of 3 February 2020

prohibiting Lithuania to repeat granting authorisations under Article 53(1) of Regulation (EC) No 1107/2009 for the plant protection products containing the active substance thiamethoxam for use on spring rape against *Phyllotreta* spp. and/or *Psylliodes* spp.

(notified under document C(2020) 464)

(Only the Lithuanian text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC[(1)], and in particular Article 53(3)(a) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 485/2013[(2)] amended the conditions of approval of the active substances thiamethoxam, clothianidin and imidacloprid, belonging to the class of neonicotinoids. Article 2 of that Regulation prohibited the sale and use of seeds of certain crops treated with plant protection products containing these active substances, with the exception of seeds used in greenhouses. Accordingly, Member States had to amend or withdraw existing authorisations for plant protection products containing those active substances.

(2) Since 26 February 2016, Lithuania has repeatedly granted emergency authorisations covering the treatment of seeds, sale and sowing of seeds treated with plant protection products containing those active substances, based on the derogation provided for in Article 53(1) of Regulation (EC) No 1107/2009 for emergency situations. These emergency authorisations were duly notified to the Commission and to the other Member States.

(3) On 3 March 2017, Lithuania notified the Commission two emergency authorisations in force from 1 March 2017 until 28 June 2017 for a plant protection product containing

thiamethoxam (CRUISER OSR) for use on spring rape against *Phyllotreta nemorum* and *Psylliodes chrysocephala* and for a plant protection product containing clothianidin (MODESTO) for the use on spring rape against *Athalia rosae*, *Delia radicum*, *Phyllotreta* spp. and *Psylliodes* spp..

(4) On 15 September 2017, in accordance with Article 53(2) of Regulation (EC) No 1107/2009, the Commission asked the European Food Safety Authority ('the Authority') to assess several Member States', including Lithuania's, emergency authorisations for plant protection products containing the active substances clothianidin, imidacloprid and thiametoxam for uses no longer approved by Implementing Regulation (EU) No 485/2013, in the light of the conditions for emergency authorisations laid down in Article 53(1) of Regulation (EC) No 1107/2009.

(5) On 1 March 2018, Lithuania again notified an emergency authorisation for the product CRUISER OSR containing the active substance thiamethoxam for seed treatment and sowing of treated seeds, for use on spring rape against *Phyllotreta nemorum* and *Psylliodes chrysocephala*.

(6) In respect of the three active substances concerned, Commission Implementing Regulations (EU) 2018/783[(3)], (EU) 2018/784[(4)] and (EU) 2018/785[(5)] confirmed the restrictions imposed by Implementing Regulation (EU) No 485/2013. They further restricted the use of plant protection products containing the active substances imidacloprid, clothianidin and thiamethoxam allowing only for authorisation of uses as insecticides in permanent greenhouses or for the treatment of seeds intended to be used only in permanent greenhouses. Furthermore, resulting crops must stay within permanent greenhouses during their entire life cycle.

(7) In the technical report prepared upon Commission's request referred to in recital 4 and published on 21 June 2018[(6)] regarding the four crop/pest combinations, for which the emergency authorisation were given by Lithuania, the Authority concluded that for two crop/pest combinations there was a product containing an alternative active substance authorised with the same mode of action, namely, spring rape/*Phyllotreta* spp. and spring rape/*Psylliodes* spp.. Yet, one product did not only cover spring rape/*Phyllotreta* spp. and spring rape/*Psylliodes* spp., for which an alternative existed, but was used at the same time to cover other crop/pest combinations, namely spring rape/*Athalia rosae* and spring rape/*Delia radicum*, for which no product containing an alternative substance was available.

(8) Therefore, based on the assessment by the Authority, the Commission considers that the conditions laid down in Article 53(1) of Regulation (EC) No 1107/2009 were not met in Lithuania as regards CRUISER OSR, containing the active substance thiamethoxam for use for the crop/pest combinations spring rape/*Phyllotreta* spp. and spring rape/*Psylliodes* spp. as these emergency authorisations contain a crop/pest combination for which another product, containing an alternative active substance with the same mode of action, was authorised. The product covering spring rape/*Athalia rosae* and spring rape/*Delia radicum,* for which another product, containing an alternative active substance with the same mode of action, was authorised also covered another pest for the same crop for which no alternative was available, and, consequently