Commission Implementing Decision (EU) 2019/623 of 16 April 2019 concerning the extension of the action taken by the Belgian Federal Public Service Health, Food Chain Safety and Environment permitting the making available on the market and use of the biocidal product Phostoxin in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council (notified under document C(2019) 2828) (Only the Dutch and French texts are authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2019/623

of 16 April 2019

concerning the extension of the action taken by the Belgian Federal Public Service Health, Food Chain Safety and Environment permitting the making available on the market and use of the biocidal product Phostoxin in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council

(notified under document C(2019) 2828)

(Only the Dutch and French 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 the third subparagraph of Article 55(1) thereof,

Whereas:

(1) On 30 May 2018 the Belgian Federal Public Service Health, Food Chain Safety and Environment (the 'Belgian competent authority') adopted a decision in accordance with the first subparagraph of Article 55(1) of Regulation (EU) No 528/2012 to permit until 7 December 2018 the making available on the market and use on the site of Zaventem Airport of the biocidal product Phostoxin as a biocidal product of product-type 20 for the control of rabbits ('the action'). The Belgian 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 Belgian competent authority, the action was necessary in order to protect public health, since the rabbits on the site of the airport might endanger the transport of passengers and more generally the air transport. The rabbit burrows can undermine the airport's runways. Moreover, rabbits attract birds of prey, which can be caught in the aircraft's engine or can collide with the aircraft, causing damage to the engine or other components of the aircraft.

(3) Phostoxin contains aluminium phosphide releasing phosphine as an active substance, which is approved for use in biocidal products of product types 14 (rodenticides), 18

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/623. (See end of Document for details)*

(insecticides) and 20 (control of other vertebrates) as defined in Annex V to Regulation (EU) No 528/2012. Phostoxin is authorised in Belgium as a biocidal product of product type 18 whereas the use against rabbits entails its use as product-type 20.

(4) On 12 October 2018, the Commission received a reasoned request from the Belgian 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 the rabbits and the argument that Phostoxin is essential in order to effectively counter the rabbits on the airport site. According to the information provided by the Belgian competent authority, there are no biocidal products authorised as product type 20 (control of other vertebrates) in Belgium and the alternative methods of control of rabbits on the site of the airport, for example shooting, are not suitable due to specificities of the location. The Belgian competent authority initiated the procedure in order to find a permanent solution for the future use of Phostoxin by way of mutual recognition of an authorisation currently granted in another Member State in accordance with Article 33 of Regulation (EU) No 528/2012.

(5) As the lack of appropriate control of the rabbits on the airport site might endanger the air transport safety and that danger cannot be adequately contained on the site of Zaventem airport by using another biocidal product or by other means, it is appropriate to allow the Belgian 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 Belgian competent authority of 30 May 2018 and under certain conditions.

(6) 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

Belgium may extend until 9 June 2020 the action to permit the making available on the market and use on the site of Zaventem airport of the biocidal product Phostoxin as a biocidal product of product-type 20 for the control of rabbits, provided that it ensures that the product is only used by certified operators and under the supervision of the competent authority.

Article 2

This Decision is addressed to the Kingdom of Belgium.

It shall apply from 8 December 2018.