EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
Director

Brussels,
BD/PP/nb(2020)5098453

[redacted]

Thank you for your e-mail of 16 January 2020[1] in which you ask clarifications with respect to the process of authorisation of active substances and plant protection products allowed for use in organic farming. In particular, you ask "*how the Member States pre-select the active substances before they submit the Dossier (apart from the being in line with the objectives and principles of organic production and with Art. 16 of EU Reg. 834/2007)*?", whether it is accepted to make proposals for compounds and if so, how you could do this, and finally, whether an active substance to be allowed in organic production should fulfil the requirements of low-risk substances under Regulation (EC) No 1272/2008[2] and Regulation (EC) No 1107/2009[3].

Please accept my apologies for the late reply.

First of all, I would recall that plant protection products may only be used in organic production when the measures described in Article 12(1)(a), (b), (c) and (g) of Regulation (EC) No 834/2007[4] do not adequately work.

In accordance with Article 16(3) of Regulation (EC) No 834/2007, Member States shall ensure that a dossier is sent officially to the Commission and to other Member States in case they consider that a new substance should be added to Annex II to Regulation (EC) No 889/2008[5] which sets out a list of substances allowed in organic farming.

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1 ARES(2020)279344

2 Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p.1)

3 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 (OJ L 309, 24.11.2009, p.1)

4 http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32007R0834

5 http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008R0889

[redacted]

It is important to underline that the substances referred to in Annex II of Regulation (EC) No 889/2008 may be used only when the substance and the corresponding use is approved pursuant to Regulation (EC) No 1107/2009 and the substance is already listed in Regulation (EU) No 540/2011[6]. This is a prior condition necessary for the selection together with the respect, as you mention in your e-mail, of the relevant objectives, principles and requirements laid down in the EU organic legislation, among others, the exclusion of use of genetically modified organisms and products produced from or by genetically modified organisms.

Indeed, only Member States shall ensure the official submission of the dossier and I would suggest you to address any request for a dossier, with all the necessary technical information, to the Member State in which you intend to market your product.
A list of national competent authorities is available at the following link:
https://ec.europa.eu/agriculture/organic/consumer-trust/certification-and-confidence/controls-and-inspections/control-system_en

Finally, there is no provision in the organic legislation requiring the substances allowed for use in organic production to be compliant with the criteria of low-risk laid down under Regulation (EC) 1272/2008 or Regulation (EC) 1107/2009.

The present opinion is provided on the basis of the facts as set out in your letter of 16 January 2020 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

[6] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:153:0001:0186:EN:PDF