

**Working document**

**REGULATION (EC) No 1107/2009 – SCOPE AND BORDERLINE ISSUES**

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**DISCLAIMER:** This document has been conceived as a working document of the Commission Services, and was elaborated on the basis of the answers to the various questions and reflects thus the conclusions reached within the Standing Committee on Plants, Animals, Food and Feed (formerly the Standing Committee on the Food Chain and Animal Health) responsible for the application of Regulation (EC) No 1107/2009 and its predecessor, Directive 91/414/EEC. They do not necessarily represent the views of the Commission services and are not legally binding. The document does not intend to produce legally binding effects and by its nature does not prejudice any measure taken by a Member State within the implementation prerogatives under Regulation (EC) No 1107/2009, nor any case law developed with regard to this provision. This document also does not preclude the possibility that the European Court of Justice may give one or another provision direct effect in Member States. Only the European Court of Justice has the highest authority to give authoritative interpretations on the contents of Community law.

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**1. Overall principles supporting the recommended interpretation regarding the scope:**

The criteria determining whether a product might or not fall within the scope of the Regulation (EC) No 1107/2009 are mainly outlined in its Article 2 where the intended uses and functions allocated to plant protection products are described. Furthermore, Article 3 provides for several definitions which give indications as regards the nature of the substances concerned which triggered somehow the mode of action, the type of “items” to be protected or the type of pests to be combatted or the plant growth mechanisms influenced by the plant protection product.

These main criteria are tentatively explained in this introduction. However the interpretation agreed by the Standing Committee may vary on a case by case and are explained with some more details in the table below.

This table was initiated in 1994, so at the time when the former Directive 91/414/EEC was still in application. Therefore these interpretations referring to this outdated regulatory framework might be considered with care: some may still be valid, some not anymore, hence it would be recommendable to the

**Practical border cases examined by the ScoPAFF**

	<b>Active substance or product</b>	<b>Date discussed</b>	<b>Doc. Reference</b>	<b>Comments – Uses</b>	<b>Conclusions</b>
Buiten reikwijdte verzoek					

	Active substance or product	Date discussed	Doc. Reference	Comments – Uses	Conclusions
85	Agri-Colle	Legislation 14/15 February 2005	Request from the company	Product composed of natural gums in a suspension applied by spraying directly on the plants or surrounding structures. While drying insects landing on the surface are trapped. The dried gum film loses its sticky properties and does not accumulate on the plants. Trapping by physical process. Products acting by non-chemical or non-biological means are excluded from the scope.	Not PPP.

Buiten reikwijdte verzoek

	<b>Active substance or product</b>	<b>Date discussed</b>	<b>Doc. Reference</b>	<b>Comments – Uses</b>	<b>Conclusions</b>
				the dossier is presented.	
162	Siltac	23 January 2017	Request by one Member State	<p>Spray application against insects on fruit trees, ornamentals and other plants.</p> <p>Although at the borderline between products that only have sticking properties and those of which the mode of action is more invasive (suffocation), it shows from the elements of the dossier (i.e. the molecular structure) that the action is rather immobilisation (trapping) than suffocation, hence the product shall not be considered as a PPP.</p>	Not PPP.

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