

## COMMISSION DECISION

of 20 January 2011

concerning the non-inclusion of 1,3-dichloropropene in Annex I to Council Directive 91/414/EEC

(notified under document C(2011) 119)

(Text with EEA relevance)

(2011/36/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market<sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) By Commission Decision 2007/619/EC<sup>(2)</sup> it was decided not to include the active substance 1,3-dichloropropene in Annex I to Directive 91/414/EEC. That Decision was taken within the framework of the second stage of the programme of work provided for in Commission Regulations (EC) No 451/2000<sup>(3)</sup> and (EC) No 703/2001<sup>(4)</sup> which lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and which establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC.
- (2) The original notifier submitted a new application pursuant to Article 6(2) of Directive 91/414/EEC and Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I<sup>(5)</sup>. It requested the application of the accelerated procedure pursuant to Chapter III of Regulation (EC) No 33/2008 and submitted an updated dossier. The application was submitted to Spain, which had been designated rapporteur Member State by Regulation (EC) No 451/2000.
- (3) That application complies with the substantive and procedural requirements of Article 15 of Regulation

(EC) No 33/2008 and was submitted within the time period provided for in the second sentence of Article 13 of that Regulation.

- (4) Spain evaluated the new information and data submitted by the notifier and prepared an additional report on 15 April 2009.
- (5) The additional report was peer reviewed by the Member States and the European Food Safety Authority, hereinafter 'EFSA', and presented to the Commission on 30 September 2009 in the format of the EFSA Conclusion for 1,3-dichloropropene<sup>(6)</sup>. This report was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 9 July 2010 in the format of the Commission review report for 1,3-dichloropropene.
- (6) The new assessment by the rapporteur Member State and the new conclusion by the EFSA concentrated on the concerns that lead to the non-inclusion, which were due to the release in the environment of large amounts of known and unknown polychlorinated impurities, for which no information on persistency, toxicological behaviour, uptake from crops, accumulation, metabolic fate and residue level were available, as well as to the inconclusive nature of the consumer risk assessment and to the risk of groundwater potential contamination, for birds, mammals, aquatic organisms and other non-target organism.
- (7) New data and information were submitted by the notifier in the updated dossier to address the concerns which lead to the non-inclusion, in particular as regards the identity of a number of impurities, the level of residues expected in crops, the risk to groundwater contamination and the risk to birds, mammals, aquatic organisms and non-target organisms. A new assessment was performed, as included in the additional report and in the EFSA Conclusion for 1,3-dichloropropene.
- (8) However, the additional data and information provided by the notifier did not permit to eliminate all the specific concerns that led to the non-inclusion.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 249, 25.9.2007, p. 11.

<sup>(3)</sup> OJ L 55, 29.2.2000, p. 25.

<sup>(4)</sup> OJ L 98, 7.4.2001, p. 6.

<sup>(5)</sup> OJ L 15, 18.1.2008, p. 5.

<sup>(6)</sup> European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance (EZ)-1,3-dichloropropene on request from the European Commission. EFSA Journal 2009; 7(10):1341. [102 pp.]. doi:10.2903/j.efsa.2009.1341. Available online: [www.efsa.europa.eu](http://www.efsa.europa.eu)

- (9) In particular, there is a concern for the consumer exposure in relation to 11 unidentified manufacturing impurities. Furthermore, the potential contamination of groundwater in relation to 1,3-dichloropropene, its relevant toxic breakdown product (EZ)-3-chloroacrylic acid and 11 unidentified manufacturing impurities were not adequately addressed and there is a potential for long-range transport through the atmosphere of 10 manufacturing impurities. In addition, the risk to non-target organisms was not demonstrated to be acceptable.
- (10) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. Furthermore, in accordance with Article 21(1) of Regulation (EC) No 33/2008, the Commission invited the notifier to submit comments on the draft review report. The notifier submitted its comments, which have been carefully examined.
- (11) However, despite the arguments put forward by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing 1,3-dichloropropene satisfy in general the conditions laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (12) 1,3-dichloropropene should therefore not be included in Annex I to Directive 91/414/EEC.
- (13) Decision 2007/619/EC should be repealed.
- (14) This Decision does not prejudice the submission of a further application for 1,3-dichloropropene pursuant to Article 6(2) of Directive 91/414/EEC and Chapter II of Regulation (EC) No 33/2008.
- (15) The Standing Committee on the Food Chain and Animal Health did not deliver an opinion within the time-limit laid down by its Chairman and the Commission therefore submitted to the Council a proposal relating to these measures. On the expiry of the period laid down in the second subparagraph of Article 19(2) of Directive 91/414/EEC, the Council had neither adopted the proposed implementing act nor indicated its opposition to the proposal for implementing measures and it is accordingly for the Commission to adopt these measures,

HAS ADOPTED THIS DECISION:

*Article 1*

1,3-dichloropropene shall not be included as active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Decision 2007/619/EC is repealed.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 20 January 2011.

*For the Commission*

John DALLI

*Member of the Commission*