COMMISSION DECISION

of 8 February 2010

concerning the non-inclusion of diazinon in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market

(notified under document C(2010) 749)

(Text with EEA relevance)

(2010/71/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market [1], and in particular the second subparagraph of Article 16(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 1451/2007 of 4 December 2007 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market [2] establishes a list of active substances to be assessed, with a view to their possible inclusion in Annex I, IA or IB to Directive 98/8/EC.

(2) Diazinon is included in that list for use in product-type 18, insecticides, acaricides and products to control other arthropods, as defined in Annex V to Directive 98/8/EC.

(3) The deadline for the submission of a complete dossier for active substances for use in product-type 18 was 30 April 2006. No complete dossier was however received within this time period.

(4) The Commission informed the Member States accordingly. On 14 June 2006, the Commission also made that information public by electronic means.

(5) Within the period of three months from that publication, a company indicated an interest in taking over the role of participant for diazinon for use in product-type 18.

(6) Commission Decision 2007/794/EC of 29 November 2007 setting a new deadline for the submission of dossiers for certain substances to be examined under the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC [3] fixed the new deadline for the submission of a dossier to 30 April 2008.

(7) Within this new deadline, before submitting its dossier, the applicant consulted Portugal, the rapporteur Member State designated for the evaluation of diazinon, to enquire whether its reference product, a flea collar, was to be considered as a biocidal product or a veterinary medicinal product.

(8) Portugal, after consultation with the Commission and the other Member States, advised the applicant that most Member States would not consider a flea collar such as the one placed on the market by the applicant as a biocidal but as a veterinary medicinal product, as defined in Article 1(2) of Directive 2001/82/EC of the European Parliament and of the Council [4].

(9) In view of this advice the applicant did not submit a dossier for the inclusion of diazinon in Annex I, IA or IB to Directive 98/8/EC for product-type 18. Pursuant to Article 12(4) of Regulation (EC) No 1451/2007, the role of participant for diazinon for product-type 18 may no longer be taken over.

(10) Since the applicant did not submit a dossier within the prescribed period, diazinon should not be included for product-type 18 in Annex I, IA or IB to Directive 98/8/EC.

(11) It is necessary to establish a longer period for the phasing-out of flea collars placed on the market of certain Member States as biocidal products to allow for their authorisation as veterinary medicinal products in accordance with Directive 2001/82/EC.

[1] OJ L 123, 24.4.1998, p. 1.
[2] OJ L 325, 11.12.2007, p. 3.
[3] OJ L 320, 6.12.2007, p. 35.
[4] OJ L 311, 28.11.2001, p. 1.

(12) 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

Diazinon (CAS number 333-41-5, EC number 206-373-8) shall not be included in Annex I, IA or IB to Directive 98/8/EC for product-type 18.

Article 2

Flea collars placed on the market as biocidal products and containing diazinon for use in product-type 18 shall no longer be placed on the market with effect from 1 March 2013.

Other biocidal products containing diazinon for use in product-type 18 shall no longer be placed on the market with effect from 1 March 2011.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 8 February 2010.

For the Commission

Stavros DIMAS

Member of the Commission