COMMISSION

COMMISSION DECISION

of 14 May 2009

concerning the placing on the market for essential use of biocidal products containing temephos in the French overseas departments

(notified under document number C(2009) 3744)

(Only the French text is authentic)

(2009/395/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 [1], and in particular Article 5(3) thereof,

Whereas:

(1) The first subparagraph of Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council [2] (hereinafter referred to as 'the Directive') provides that the Commission shall commence a 10-year work programme for the systematic examination of all active substances already on the market on 14 May 2000 (hereinafter referred to as 'the review programme').

(2) Temephos was identified as available on the market before 14 May 2000 as an active substance of biocidal products for purposes other than those referred to in Article 2(2)(c) and (d) of Directive 98/8/EC. No dossier was submitted in support of the inclusion of temephos in Annex I, IA or IB to the Directive within the prescribed deadline.

(3) In accordance with the first subparagraph of Article 4(2) of Commission Regulation (EC) No 2032/2003 [3], Member States had to cancel existing authorisations or registrations for biocidal products containing temephos with effect from 1 September 2006. Pursuant to Article 4(1) of Regulation (EC) No 1451/2007 (hereinafter referred to as 'the Regulation'), biocidal products containing temephos shall no longer be placed on the market.

(4) Article 5 of the Regulation lays down the conditions under which Member States may apply to the Commission for derogation from the provision laid down in Article 4(1) of the Regulation and the conditions for granting such derogation.

(5) By Commission Decision 2007/226/EC [4], the Commission granted such derogation for biocidal products containing temephos used for vector mosquito control in the French overseas departments. The derogation was granted until 14 May 2009.

(6) France has submitted an application to the Commission for extension of the derogation until 14 May 2010, together with information demonstrating a need for further use of temephos. The Commission made the French application publicly available by electronic means on 13 February 2009. No concern was expressed during the 60-days public consultation period against this application.

(7) With regard to the magnitude of the outbreaks of mosquito-spread diseases in the French overseas departments, it is appropriate to continue allowing the use of temephos in situations where treatment with other substances or biocidal products is not efficient. A further extension of the phase-out period for this substance seems, therefore, necessary to allow for its replacement by other suitable substances,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 4(1) of Regulation (EC) No 1451/2007, France may allow the placing on the market of biocidal products containing Temephos (EC No 222-191-1; CAS No 3383-96-8), for vector mosquito control in the French overseas departments until 14 May 2010.

[1] OJ L 325, 11.12.2007, p. 3.
[2] OJ L 123, 24.4.1998, p. 1.
[3] OJ L 307, 24.11.2003, p. 1.
[4] OJ L 97, 12.4.2007, p. 47.

Article 2

1. When allowing the placing on the market of biocidal products containing temephos in accordance with Article 1, France shall ensure that the following conditions are complied with:

(a) continued use is only possible under the conditions that biocidal products containing temephos are approved for the intended essential use;

(b) the continued use is only accepted so far as it has no unacceptable effect on human or animal health or on the environment;

(c) all appropriate risk reduction measures are imposed when granting approval;

(d) such biocidal products remaining on the market after 1 September 2006 are relabelled in order to match the restricted use conditions;

(e) where appropriate, alternatives for such uses are being sought by the holders of the approvals or by France.

2. At the latest by 14 May 2010, France shall inform the Commission on the application of paragraph 1 and in particular on the actions taken pursuant to point (e) of that paragraph.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 14 May 2009.

For the Commission

Stavros DIMAS

Member of the Commission