COMMISSION DECISION

of 4 December 2002

concerning the non-inclusion of azafenidin in Annex I to Council Directive 91/414/EEC

(notified under document number C(2002) 4781)

(Text with EEA relevance)

(2002/949/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market [1], as last amended by Commission Directive 2002/81/EC [2], and in particular of Article 6(1) thereof,

Whereas:

(1) In accordance with Article 6(2) of Directive 91/414/EEC (hereinafter 'the Directive') Spain received on 25 June 1997 an application from Du Pont de Nemours ('the applicant') for the inclusion of the active substance azafenidin (DPX R 6447) in Annex I to the Directive.

(2) In accordance with the provisions of Article 6(3) of the Directive the Commission confirmed in its Decision 98/242/EC [3] that the dossier submitted for azafenidin could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.

(3) In accordance with Article 5(1) of the Directive, an active substance should be included in Annex I for a period not exceeding 10 years if it may be expected that neither the use of, or residues from, plant protection products containing the active substance will have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment.

(4) For azafenidin, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of the Directive, for the uses proposed by the applicant. Spain acting as nominated rapporteur Member State, submitted a draft assessment report concerning the substance to the Commission on 23 February 2001.

(5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the applicant Du Pont de Nemours as provided for in Article 6(4) of the Directive.

(6) The applicant informed the Commission and the rapporteur Member State that it no longer wished to participate in the programme of work for this active substance.

(7) Therefore, it is not possible to include this active substance in Annex I to Directive 91/414/EEC.

(8) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing azafenidin allowed by Member States, in accordance with the provisions of Article 8(1) of Directive 91/414/EEC, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

(9) This decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC [4].

(10) It is appropriate to provide that the finalised review report, except for confidential information, should be kept available or made available by the Member States for consultation by any interested parties.

(11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Azafenidin is not included as an active substance in Annex I to Council Directive 91/414/EEC.

[1] OJ L 230, 19.8.1991, p. 1.
[2] OJ L 276, 12.10.2002, p. 28.
[3] OJ L 96, 28.3.1998, p. 45.
[4] OJ L 33, 8.2.1979, p. 36.

Article 2

Member States shall ensure that:

1. provisional authorisations for plant protection products containing azafenidin are withdrawn within a period of 6 months from the date of adoption of the present Decision;
2. from the date of adoption of the present Decision no provisional authorisations for plant protection products containing azafenidin will be granted under the derogation provided for in Article 8(1) of Directive 91/414/EEC.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and not longer than 18 months from the date of adoption of the present Decision.

Article 4

Member States shall keep available the review report for azafenidin, except for confidential information within the meaning of Article 14 of Directive 91/414/EEC, for consultation by any interested parties or shall make it available to them on specific request.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 4 December 2002.

For the Commission

David BYRNE

Member of the Commission