



12.7.2010

NOTICE TO MEMBERS

Subject: Petition 1665/2009 by Peter Brown (British), on the justification for prohibition of use of Strychnine Hydrochloride for pest control according to Directive 98/8/EC

1. Summary of petition

The petitioner contests the justification for prohibiting the use of Strychnine Hydrochloride for pest (mole) control, as foreseen by Directive 98/8/EC, which entered into force on 1 September 2006. The petitioner feels aggrieved because he has lots his business on account of this prohibition which he considers unjustified. What is more, he considers the alternative methods of exterminating moles to be more expensive and less effective.

2. Admissibility

Declared admissible on 24 February 2010. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 12 July 2010.

The petition

The petitioner is unhappy about the costs of defending an active substance during the above-mentioned review programme. Defending strychnine hydrochloride would have required him to pay a fee of €5 million. He finds the regulation at EU level superfluous, since pesticides were already regulated in the UK since decades and he also finds alternative mole control methods costly and ineffective. The petitioner considers that the Commission did not make a proper impact study as it had promised, and feels that the study was not publicised enough and not based on evidence. He considers himself deprived of his right to property and, therefore, entitled to financial redress. He also claims that there is evidence to support the continued use of strychnine hydrochloride, whereas other chemicals remaining on the market are dangerous.

The Commission's comments on the petition

The Biocides Directive 98/8/EC¹, provides for the systematic examination during a 14-year review programme of the active substances contained in biocidal products that were on the market before 14 May 2000 (the so-called 'existing' active substances). For this purpose, the biocides industry had to identify all the active substances they were using in their products, and if they wished to continue using them, they had to notify their intention to submit full data for their evaluation (efficacy and risk assessment).

The active substances that were only identified, i.e. not defended with data by the industry (list adopted in 2003), were given a phase-out period (1.9.2006), after which they could no longer be used for biocidal purposes. Such was the case of strychnine hydrochloride.

Consequently, there is no possibility to place strychnine hydrochloride on the market for the control of moles except by submitting the required information for its evaluation, in accordance with Article 11 of the Biocides Directive. Therefore, if a company were to submit a dossier on strychnine and the outcome of the evaluation was favourable, the substance can only be re-introduced onto the market after the end of the evaluation procedure, the adoption and transposition of the inclusion directive into national law and the granting of the relevant authorisations at Member State level.

The rules of the biocidal products directive apply equally for all active substances used in biocidal products. Companies have to bear the costs of collecting the necessary data for the risk assessment and also pay national fees to Member States' competent authorities for the evaluation. The data collection and evaluation is, however, necessary to ensure a high level of protection of the environment and of human health. The possibility to have strychnine hydrochloride evaluated and approved for use in biocidal products under the Biocides Directive remains, in which case the relevant data for the risk assessment has to be provided, as for any other active substances intended for use in biocidal products.

The impact study from October 2008 to which the petitioner refers is the *Evaluation of the implementation of Directive 98/8/EC concerning the placing of biocidal products on the market (submitted in accordance with Article 18(5) of the Directive) and progress report on the work programme referred to in Article 16(2) of the same Directive of 8 October 2008* (COM(2008)620 final), which refers to a commissioned study on the implementation of the directive finalised in October 2007². The latter was based on a stakeholder consultation, launched on the website of DG Environment in November 2006, in which around 280 stakeholders participated. The impact of the ban on a number of active substances, including strychnine chloride, is analysed in the study. One of the conclusions of the evaluation was that the Biocides Directive should be revised, with the purpose, among others, of facilitating compliance with the directive for SMEs. The Commission delivered on this commitment on 12 June 2009, when it adopted a proposal for a Biocides Regulation (COM(2009)267). The proposal contains a number of elements aiming to facilitate this compliance, such as the adaptation of certain data requirements to reduce costs and fee reduction for small and medium

¹ OJ L 123 , 24.4.1998, p. 1-63

² Available on the Internet site

http://circa.europa.eu/Public/irc/env/bio_reports/library?l=/study_implementation/report_101007pdf/_EN_1.0_&a=d

sized companies.

Conclusions

The Commission has acted within the legal framework provided by the Biocides Directive, adopted by the European Parliament and the Council. It has also constructively tried to improve on the directive in the proposed Biocides Regulation.