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**SANCO/10750/2009 (POOL/E3/2009/10750/10750-EN.doc)**

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EUROPEAN COMMISSION

Brussels,  
C(2010)

final

Draft

**COMMISSION DECISION**

**of**

**concerning the non-inclusion of 2,4,4'-trichloro-2'-hydroxydiphenyl ether in the Community list of additives which may be used in the manufacture of plastic materials and articles intended to come into contact with foodstuffs under Directive 2002/72/EC**

**(Text with EEA relevance)**

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## COMMISSION DECISION

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**concerning the non-inclusion of 2,4,4'-trichloro-2'-hydroxydiphenyl ether in the Community list of additives which may be used in the manufacture of plastic materials and articles intended to come into contact with foodstuffs under Directive 2002/72/EC**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION

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

Having regard to Commission Regulation (EC) No 1935/2004 of the European Council and the Parliament of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC<sup>1</sup>, and in particular Article 11 (3) thereof,

Whereas:

- (1) Annex III to Commission Directive 2002/72/EC of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs<sup>2</sup> establishes a Community list of additives which may be used for the manufacture of plastic materials and articles. According to Article 4a(1) of that Directive, following submission of an application and its scientific evaluation by the European Food Safety Authority, a new additive may be added to that list.
- (2) On 23 March 1998 RCC Registration Consulting submitted data for the evaluation of the safety of 2,4,4'-trichloro-2'-hydroxydiphenyl ether on behalf of Ciba Inc for use as an additive in the manufacture of plastic materials and articles intended to come into contact with foodstuffs.
- (3) In accordance with Article 4a(5) of Directive 2002/72/EC 2,4,4'-trichloro-2'-hydroxydiphenyl ether was included in the provisional list of additives provided for in Article 4a(3) thereof.
- (4) In its opinion of 15 March 2004, the European Food Safety Authority, came to the conclusion that the requested use of 2,4,4'-trichloro-2'-hydroxydiphenyl ether could be accepted, provided the substance is not migrating into food at a level of 5 mg/kg of food.

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<sup>1</sup> OJ L 338, 13.11.2004, p. 4.

<sup>2</sup> OJ L 220, 15.8.2002, p. 18.

- (5) On 21 April 2009 Ciba Inc informed the Commission of its decision to withdraw the application for the authorisation of the substance as an additive in the manufacture of plastic materials and articles intended to come into contact with foodstuffs. The company does not consider the use of the substance in plastics intended to come into contact with food appropriate any more.
- (6) As there is no longer a valid application for the use of 2,4,4'-trichloro-2'-hydroxydiphenyl ether as an additive in plastics intended to come into contact with food, the substance should not be included in Annex III to Directive 2002/72/EC.
- (7) Therefore, pursuant to point (b) of Article 4a(6) of Directive 2002/72/EC, the substance should be removed from the provisional list of additives.
- (8) Taking into account that 2,4,4'-trichloro-2'-hydroxydiphenyl ether may have been used in the manufacture of plastic materials and articles intended to come into contact with foodstuffs, a transitional period should be introduced for the marketing of plastic materials and articles containing that substance .
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS DECISION:

*Article 1*

2,4,4'-trichloro-2'-hydroxydiphenyl ether (CAS No 0003380-34-5, ref. No 93930) shall not be included in Annex III to Directive 2002/72/EC.

*Article 2*

Plastic materials and articles manufactured with 2,4,4'-trichloro-2'-hydroxydiphenyl ether and placed on the market before [date of publication of the decision + 6 months], may continue to be marketed until [date of publication of the decision + 18 months], subject to national law.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Commission  
Androulla VASSILIOU  
Member of the Commission*