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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

Ciba-Geigy Corporation,	)	
Claimant	)	
v.	)	FIFRA COMP. Docket No. 1
Industria Prodotti Chimici,	)	
Respondent	)	Accelerated Decision

This is a proceeding under section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136a(c)(1)(D), Supp. V, 1975), instituted by a claim for compensation filed by Ciba-Geigy Corporation by letter dated June 17, 1974 against Industria Prodotti Chimici for test data allegedly produced by Ciba-Geigy Corporation and purportedly utilized or to be utilized in the registration under the act of Industria Prodotti Chimici's product Atrazine Technical pursuant to an application for registration therefor filed December 27, 1973. Notice of such application, which had been assigned EPA File Symbol 33660-R, was published in the Federal Register May 9, 1974 (39 F.R. 16512). The application and the notice described a technical product containing 96 percent 2-chloro-4-ethylamino-6-isopropylamino-s-trazine and 4 percent inert ingredients.

Pursuant to the authorization and direction of the Acting Administrator dated October 13, 1976 (41 F.R. 46020), in part, making effective

that portion of section 3(c)(1)(D) of the act relating to the determination of claims, the Director of the Agency's Registration Division certified and forwarded the file in this proceeding December 21, 1976 to the Office of Administrative Law Judges and the file and Rules of Procedure promulgated herein were subsequently served upon the parties.

Claimant's claim of June 17, 1974 states that the "application giving rise to our claim is designated EPA File Symbol 33660-R as published in the Federal Register, Vol. 39, No. 91, Page 16512, May 9, 1974" and lists extensive data for which compensation is claimed, which data had been submitted to the Agency beginning in 1959 and continuing through 1973. Subsequent to such claim, Respondent, by letter dated May 5, 1975 to the Agency, requested that the Registration Division "withdraw from our registration application data that can be subject of a compensation claim" and "proceed with registration of our product under 2(a) considering that all data we hereby submit to your review are our own data specifically carried out to support our application." On July 19, 1976, a registration was issued for Respondent's product, EPA Reg. No. 33660-1.

Subsequent to an order dated July 11, 1977, clarifying and, in effect, restricting the scope of this proceeding in relation to the issues raised by Claimant herein, and a prehearing conference on August 29, 1977, the parties filed a stipulation November 1, 1977, at the request of the Administrative Law Judge "which would enable the entry

of an accelerated decision as to matters he has ruled are within the scope of this proceeding, and which would enable the parties to pursue further legal remedies as to issues which have been ruled outside the scope of this proceeding."

Such stipulation contains, in part, the following:

> "1. The Administrator did not consider, in support of I.Pi.Ci.'s registration of Atrazine Technical, EPA Reg. No. 33660-1, under the 1947 FIFRA registration requirements, data owned by Ciba-Geigy and submitted on or after January 1, 1970."

It is clear, by reason of such stipulation, and the July 11, 1977 clarifying order, that the issuance of an accelerated decision pursuant to section 13(a) of the Rules of Procedure dismissing the claim herein is appropriate. In the issuance of the registration in issue to Respondent, the Administrator did not consider any data submitted by Claimant on or after January 1, 1970. In the circumstances presented, we find no basis for compensation in a proceeding under section 3(c)(1)(D) of the act. See section 3(c)(1)(D) in effect at the time of issuance of the registration (7 U.S.C. 136a(c)([illegible] Supp. V, 1975, P. Law 94-140 (November 28, 1975)). "For applications submitted after October 21, 1972 and approved after November 28, 1975, the cut-off date is January 1, 1970. (See 42 Fed. Reg. 31285, June 20, 1977)." Rohm and Haas Company v. Thompson-Hayward Chemical Company et al., FIFRA [illegible] Dockets No. 39, 40, 25, 43 and 38 (December 1, 1977), footnote [illegible] Dow Chemical Company v. Velsicol Chemical Corporation, F[illegible] Nos. 4 through 18 (May 25, 1977).

Accordingly, Claimant's claim for compensation herein instituted by its letter of June 17, 1974 is hereby dismissed.

Herbert L. Perlman
Chief Administrative Law Judge

December 8, 1977