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**COMMISSION DECISION**

**of 24 July 2008**

**on emergency measures applicable to crustaceous imported from Bangladesh and intended for human consumption**

*(notified under document number C(2008) 3698)*

**(Text with EEA relevance)**

**(2008/630/EC)**

**(OJ L 205, 1.8.2008, p. 49)**

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# COMMISSION DECISION

of 24 July 2008

**on emergency measures applicable to crustaceous imported from Bangladesh and intended for human consumption**

*(notified under document number C(2008) 3698)*

**(Text with EEA relevance)**

(2008/630/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(1)</sup>, and in particular Article 53(1)(b)(ii) thereof,

Whereas:

- (1) Regulation (EC) No 178/2002 lays down the general principles governing food and feed in general, and food and feed safety in particular, at Community and national level. It provides for emergency measures where it is evident that food or feed imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned.
- (2) Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products <sup>(2)</sup> provides that the production process of animals and primary products of animal origin is to be monitored for the purpose of detecting the presence of certain residues and substances in live animals, their excrements and body fluids and in tissue, animal products, animal feed and drinking water.
- (3) Residues of veterinary medicinal products and unauthorised substances have been detected in crustaceous imported from Bangladesh and intended for human consumption. The presence of those products and substances in food presents a potential risk for human health.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

<sup>(2)</sup> OJ L 125, 23.5.1996, p. 10. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

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- (4) The results of the latest Community inspection visit to Bangladesh have revealed serious shortcomings as regards the residue control system in live animals and animal products and a lack of appropriate laboratory capacity for the testing of certain residues of veterinary medicinal products in live animals and animal products.
- (5) Bangladesh has recently taken measures concerning those shortcomings as regards the handling and testing of fishery products.
- (6) Since those measures are not sufficient, it is appropriate to adopt, at Community level, certain emergency measures applicable to importations of crustaceous from Bangladesh in order to ensure the effective and uniform protection of human health in all Member States.
- (7) Accordingly, Member States should allow importations of crustaceous from Bangladesh only if it can be shown that they have been subjected to an analytical test at origin to verify that they do not contain any unauthorised substances and that the levels of certain residues of veterinary medicinal products do not exceed the maximum residue levels laid down in Community legislation.
- (8) However, it is appropriate to authorise, the importation of consignments that are not accompanied by the results of the analytical tests at origin, provided that the importing Member States ensures that those consignments undergo appropriate checks on arrival at the Community border.
- (9) This Decision should be reviewed in the light of the guarantees offered by Bangladesh and on the basis of the results of the analytical tests carried out by the Member States.
- (10) 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*

This Decision shall apply to consignments of crustaceous imported from Bangladesh and intended for human consumption (the products).

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*Article 2*

1. Member States shall authorise the importation into the Union of consignments of the products provided that they are accompanied by the results of an analytical test carried out at the place of origin to ensure that they do not present a danger to human health ('the analytical test').
2. The analytical test must have been carried out on an official sample, in order to detect the presence of residues of pharmacologically active substances, as defined in Article 2(a) of Regulation (EC) No 470/2009 of the European Parliament and of the Council <sup>(1)</sup>, and in particular they must have been tested for the presence of:

<sup>(1)</sup> OJ L 152, 16.6.2009, p. 11.

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- chloramphenicol, tetracycline, oxytetracycline, chlortetracycline,
- metabolites of nitrofurans,
- malachite green and crystal violet and their respective leuco-metabolites.

3. By way of derogation from paragraph 1, Member States shall authorise the importation of consignments of the products that are not accompanied by the results of the analytical test provided that the Member State concerned ensures that each consignment undergoes appropriate checks including the analytical test of official samples on arrival at the border inspection post of the point of entry into the Union to ensure that they do not present a danger to human health.

*Article 3*

Member States shall, by using appropriate sampling plans, ensure that official samples are taken from at least 20 % of the consignments referred to in Article 1.

Those official samples shall undergo analytical tests for the detection of the presence of residues of pharmacologically active substances, as defined in Article 2(a) of Regulation (EC) No 470/2009, and in particular they must have been tested for the presence of chloramphenicol, tetracycline, oxytetracycline, chlortetracycline and metabolites of nitrofurans.

*Article 4*

The consignments from which official samples have been taken pursuant to Article 2(3) and Article 3 shall be kept under official detention by the competent authority of the Member State concerned, until the analytical tests have been completed.

Those consignments can be placed on the market only if the results of the analytical tests confirm that the consignments comply with Article 23 of Regulation (EC) No 470/2009.

*Article 4a*

Member States shall immediately inform the Commission of the results of the analytical tests if those tests reveal the presence of residues of any pharmacologically active substance:

- (a) classified in accordance with Article 14(2)(a), (b) or (c) of Regulation (EC) No 470/2009 at a level exceeding the maximum residue limit established pursuant to that Regulation; or
- (b) not classified in accordance with Article 14(2)(a), (b) or (c) of Regulation (EC) No 470/2009.

The results of those analytical tests shall be notified to the Commission via the rapid alert system established pursuant to Article 50(1) of Regulation (EC) No 178/2002. The Member State concerned is not required to notify the Commission of the results of such tests via the rapid alert system where the level of residues of pharmacologically active substance is lower than:

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- (i) the reference point for action established for that substance pursuant to Article 18 of Regulation (EC) No 470/2009; or
- (ii) the minimum required performance limit established for that substance referred to in Article 4 of Commission Decision 2002/657/EC <sup>(1)</sup>.

*Article 4b*

Member States shall prepare a report every three months, giving an account of all the results of all analytical tests carried out in the previous three months on consignments of the products from Bangladesh.

Those reports shall be submitted to the Commission during the month following each three-month period, in April, July, October, and January.

**▼B***Article 5*

All expenditure incurred in the application of this Decision shall be charged to the consignor, the consignee or the agent of either.

*Article 6*

Member States shall immediately inform the Commission of the measures they take to comply with this Decision.

*Article 7*

This Decision shall be reviewed on the basis of the guarantees offered by Bangladesh, and the results of the analytical tests carried out by the Member States.

*Article 8*

This Decision is addressed to the Member States.

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<sup>(1)</sup> OJ L 221, 17.8.2002, p. 8.