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COMMISSION DECISION

of 12 November 2008

on emergency measures suspending imports from Peru of certain bivalve molluscs intended for human consumption

(notified under document number C(2008) 6732)

(Text with EEA relevance)

(2008/866/EC)

(OJ L 307, 18.11.2008, p. 9)

Amended by:

► **M1**

Commission Decision 2009/297/EC of 26 March 2009

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**COMMISSION DECISION****of 12 November 2008****on emergency measures suspending imports from Peru of certain bivalve molluscs intended for human consumption***(notified under document number C(2008) 6732)***(Text with EEA relevance)**

(2008/866/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 ⁽¹⁾, and in particular Article 53(1)(b)(i) 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 a risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned.
- (2) An outbreak of Hepatitis A in humans has been confirmed in the Community. The origin of the disease has been identified to be the consumption of certain bivalve molluscs imported from Peru that were contaminated with the hepatitis A virus (HAV).
- (3) The contaminated bivalve molluscs are Donax clams (*Donax* spp) and the origin of the contamination is most likely a viral contamination of the water of the production areas. Other bivalve molluscs could therefore also be contaminated.
- (4) Since the consumption of those bivalve molluscs presents a serious risk for human health it is appropriate to suspend imports into the Community of bivalve molluscs from Peru.
- (5) Considering the seriousness of the contamination, the suspension should also apply to bivalve molluscs that have been dispatched to the Community before this Decision comes into effect but which arrive at the Community border inspection posts after that date.
- (6) The suspension of those imports should be provided for at Community level in order to ensure the effective and uniform protection of consumer health in all Member States.
- (7) The aquaculture production of scallops (*Pectinidae*) in Peru takes place in separated production areas with a low population density and far from potential sources of contamination. In addition, *Pectinidae* are processed to withdraw the viscera and thus mitigate the risk of viral contamination in the edible part of the product. It is therefore appropriate to allow imports from Peru of *Pectinidae* processed in that manner.
- (8) In addition, the heat treatment avoids the viability of the virus. It is therefore appropriate to allow imports from Peru of bivalve molluscs that have undergone a heat treatment following the requirements established in point A.5(b) of Chapter II of

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

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Section VII of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽¹⁾.

- (9) The Peruvian authorities have committed to put in place immediate corrective measures and, if necessary, to allow a Commission inspection in the coming months. It is therefore appropriate to limit the application of the measures provided for in the present Decision to 31 March 2009, without prejudice of the power of the Commission to modify, repeal or extend those measures in the light of any new information related to the evolution of the situation in Peru and of the outcome of inspections by its services.
- (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 bivalve molluscs, as defined in point 2.1 of Annex I to Regulation (EC) No 853/2004, imported from Peru and intended for human consumption (bivalve molluscs).

Article 2

Member States shall not authorise the importation into the Community of bivalve molluscs from Peru.

That prohibition shall apply to all consignments of bivalve molluscs that are received at Community border inspection posts whether or not the consignments were produced, stored or certified in the country of origin before this Decision takes effect.

Article 3

By way of derogation from Article 2, Member States shall authorise the importation into the Community of the following products:

- (a) eviscerated *Pectinidae* of aquaculture origin;
- (b) bivalve molluscs that have undergone a heat treatment as set out in point A.5(b) of Chapter II of Section VII of Annex III to Regulation (EC) No 853/2004.

Article 4

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

Article 5

This Decision shall apply until ►**M1** 30 November 2009 ◀.

Article 6

This Decision is addressed to the Member States.

⁽¹⁾ OJ L 139, 30.4.2004, p. 55; corrected by OJ L 226, 25.6.2004, p. 22.