

COMMISSION DECISION

of 3 December 1999

on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption

(notified under document number C(1999) 4220)

(Text with EEA relevance)

(1999/788/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾ as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animal and products with a view to the completion of the internal market ⁽³⁾ as last amended by Directive 92/118/EEC, and in particular Article 10(4) thereof,

Whereas:

- (1) On 27 May 1999, the Belgian authorities informed the Commission of a case of heavy contamination of compound feedingstuffs with dioxins. Those feedingstuffs had been distributed to a considerable number of poultry farms in Belgium (some 25 %) from 15 January 1999 onwards.
- (2) From 26 May 1999, the Belgian authorities placed restrictions on all the poultry holdings which had received those feedingstuffs. The Belgian authorities prohibited the slaughter of poultry from 1 June 1999. Products intended for human or animal consumption derived from animals reared in those farms before that date may still be on the market.
- (3) On 2 June 1999, the Belgian authorities informed the Commission that they had placed restrictions on some 500 pig holdings which may have received contaminated feedingstuffs. On 3 June 1999, they also informed the Commission that contaminated feedingstuffs had been distributed to a number of bovine holdings as well. The Belgian authorities adopted measures applying to pigs and bovine animals and derived products which were similar to those applied in the case of poultry and, in particular, they prohibited the slaughter of bovine animals and pigs from 3 June 1999.
- (4) It appears that those feedingstuffs, live animals which had been fed therewith and products derived from those animals have been traded to other Member States and

third countries. Other animal species may have been fed with those contaminated feedingstuffs, investigation of the responsibility for this contamination is continuing. The Community inspection in Belgium on 8 to 11 June 1999 concluded that, on the basis of the available results of analyses, a massive contamination occurred over a limited time, rather than a recurring problem. The Belgian authorities have carried out a number of surveillance programmes on the feed sectors. The results of these programmes have not showed positive results linked to this dioxin contamination in feed ingredients and compound feedingstuffs produced after 2 April 1999.

- (5) From 20 September 1999, the Belgian authorities have prohibited the slaughter of pigs and poultry and the placing on the market of eggs unless they come from homogenous groups for which the results of analysis on representative samples from those animals or eggs have demonstrated that they are not contaminated with dioxins or polychlorinated biphenyls (PCBs). Furthermore, the Belgian authorities have instigated an analytical programme for the certification of all poultry and pig holdings. This programme is currently underway and will be completed as soon as possible. Action is taken by the Belgian authorities to destroy flocks or herds on holdings where contamination is confirmed by additional testing. In the meanwhile, from 15 October 1999, the Belgian authorities have prohibited the placing on the market of pigs and poultry for the purpose of breeding, production or slaughtering and hatching eggs and eggs for human consumption, unless they come from holdings certified by the Belgian authorities as not contaminated by dioxins or PCBs on the basis of the above analytical programme,
- (6) In the light of the foregoing, it is necessary to take measures to protect the health of consumers. The measures should apply to products derived from poultry and pigs reared in Belgium from 15 January 1999 onwards. The measures should not apply to products which have been shown by analyses not to be contaminated by dioxins or which have been derived from animals slaughtered after 20 September 1999 or from eggs laid after that date. Provision should be made for contaminated products to be destroyed in a manner that ensures

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 224, 18.8.1990, p. 20.

that they cannot enter the human food or animal feed chains. It is not yet appropriate to set an end-date for the application of the measures. In order to prevent deflections of trade, the measures should also apply to exports to third countries. All relevant information should be supplied to the Commission, the Member States and third countries, where appropriate by means of the rapid alert system set up by Council Directive 92/59/EEC of 29 June 1992 on general product safety⁽¹⁾. For the purposes of intra-community trade and exports to third countries, a system of certificates should be established for consignments of Belgian origin. In view of the difficulties which have arisen in connection with the tracing system used in Belgium, it is appropriate to terminate the issue of certificates for trade or export to third countries on the basis of traceability. It is necessary that Belgium and Member States which received certain Belgian products establish a monitoring plan to evaluate the presence of contamination of dioxins/PCB in products of animal origin. Inspections should be carried out by the Commission in order to verify the implementation of this Decision.

- (7) The Belgian authorities are prepared to accept the return of those products from Member States in application of Article 7 of Directive 89/662/EEC. It is necessary to lay down strict and specific rules on the procedure to be followed when the products are returned to Belgium in order to ensure that they cannot re-enter the human food or animal feed chains before they are subjected to appropriate checks to verify their safety.
- (8) Article 15 of Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽²⁾ establishes specific rules for the re-importation of consignments of products of Community origin which have been refused by a third country. It is necessary to ensure that products returned from third countries to Belgium cannot re-enter the human food or animal feed chains before they are submitted to the appropriate checks to verify their safety.
- (9) Council Directive 1999/29/EC of 22 April 1999 on the undesirable substances and products in animal nutrition⁽³⁾ provides that feed materials may only be put into circulation in the Community if they are sound, genuine and of merchantable quality.
- (10) The body of toxicological and epidemiological evidence available today has led the International Agency for Research on Cancer (IARC) of the World Health Organisation (WHO) to consider tetrachlordibenzo-dioxin

(TCDD) a class 1 carcinogen (the highest class in the IARC ranking). The WHO has recommended that a Tolerable Daily Intake (TDI) of 1 to 4pg/Kg bw/day be respected for dioxins. No limits for dioxin contamination have been set for individual commodities and food products. Data on background levels of contamination do exist. In the absence of limits for dioxins at international, Community or national level, the data on background levels should be used as references. The analysis of dioxins requires sophisticated methods which are available only in a limited number of laboratories in the Member States.

- (11) On 11 June 1999 a Commission working group on PCBs as markers for dioxin contamination concluded that the levels of seven persistent PCBs in eggs and poultrymeat products can be used reliably as a surrogate for dioxins. Furthermore, it concluded that an action level of 200 ng PCB (sum of seven congeners)/g fat be used for poultry products. The Committee and the Commission working group stressed that those action levels were only intended to apply in the context of the present particular situation in Belgium and should not be taken as an endorsement of a permanent limit for PCBs in the products concerned.
- (12) It appears necessary to establish a provisional maximum level for PCBs in flesh pigment and derived products, pending the generation of data to allow a scientific evaluation.
- (13) On 28 and 29 June 1999 a Commission working group on the PCB/Dioxin contamination of the Belgian food supply considered the adequacy of a threshold of 2 % of fat below which foodstuffs would be excluded from the scope of the restrictions laid down. That working group concluded that, in the light of the above-mentioned opinion of the Scientific Committee for Food and considering the data available so far on PCBs and dioxins in Belgian products, it was reasonable to assume, in the case of egg products containing less than 10 % of egg fat, that their presence in amounts below 2 % was unlikely to increase PCB and dioxins intake significantly above background levels.
- (14) Article 9(4) of Directive 89/662/EEC and Article 10(4) of Directive 90/425/EEC authorise the Commission to adopt safeguard measures for animals and products specified in those Directives and, if the situation so requires, products derived from those products. Therefore, the measures provided for in this Decision can also cover incidentally other products which are not included in Annex I to the Treaty. The situation as regards contamination by dioxins justifies such measures.

⁽¹⁾ OJ L 228, 11.8.1992, p. 24.

⁽²⁾ OJ L 24, 30.1.1998, p. 9.

⁽³⁾ OJ L 115, 4.5.1999, p. 32.

- (15) Commission Decision 1999/640/EC of 23 September 1999 on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption should accordingly be repealed.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. Belgium shall prohibit the placing on the market, including distribution to the final consumer, the trade and the export to third countries, of the products listed below which are intended for human or animal consumption and are derived from poultry of species referred to in Article 2(1) of Council Directive 71/118/EEC⁽¹⁾ and pigs reared in Belgium from 15 January 1999:

- (a) fresh poultrymeat, as defined by Council Directive 71/118/EEC⁽²⁾;
- (b) fresh meat, as defined by Council Directive 64/433/EEC⁽³⁾;
- (c) mechanically recovered meat;
- (d) minced at and meat preparation, as defined by Council Directive 94/65/EC⁽⁴⁾;
- (e) meat products and other products of animal origin as defined by Council Directive 77/99/EEC⁽⁵⁾; with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated;
- (f) products intended for human consumption which contain other products of porcine or poultry origin as defined by Council Directive 77/99/EEC, which contain more than 2 % of animal fat;
- (g) eggs
- (h) egg products, as defined by Council Directive 89/437/EEG⁽⁶⁾, with the exclusion of egg white;
- (i) products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat;
- (j) rendered fats, as referred to in Directive 92/118/EEC;
- (k) processed animal proteins, as referred to in Directive 92/118/EEC;
- (l) raw material for the manufacture of animal feedingstuffs> as referred to by Council Directive 92/118/EEC;
- (m) compound feedingstuffs and pre-mixtures.

2. The prohibition set out in paragraph 1 shall not apply where:

- (a) the results of analysis demonstrate that the products are not contaminated with dioxins or, that they do not exceed the levels for PCB set out in Annex A,
- or
- (b) the products were derived from animals slaughtered after 20 September 1999 or from eggs laid after that date.

3. Belgium shall ensure that all the products referred to in paragraph 1 which do not fulfil the conditions laid down in paragraph 2 are destroyed by means approved by the competent authorities in a manner that ensures that they cannot enter the human food or animal feed chain.

4. Belgium shall inform immediately the Commission and the Member States, if appropriate by means of the rapid alert system under Directive 92/59/EEC, and third countries which have received the products covered by paragraph 3 of this Article;

5. Belgium shall monitor the level of dioxins in Belgian products of animal origin.

For this purpose, Belgium shall submit without delay a monitoring plan to the Commission.

6. Belgium shall keep the Commission and the Member States informed of the results of its investigation into the source of the contamination of feedingstuffs by dioxins.

Article 2

1. For the purpose of intra-Community trade and export to third countries, in addition to the appropriate commercial document or to the official certificate, each consignment of products of Belgian origin listed in Article 1(1) must be accompanied by an official certificate signed by the Belgian competent authority as laid down in Annex B.

2. The official certificate referred to in paragraph 1 shall be drawn up on the date of loading in the language or languages of the Member State of dispatch and in the official language of the Member State of destination and it shall consist of a single sheet.

Article 3

Member States which have received products of Belgian origin referred to in Article 1(3), shall without delay.

- (a) trace back all products of Belgian origin to which this Decision applies, and products listed in Article 1 (1) which are destined for human or animal consumption containing those products of Belgian origin;
- (b) ensure that the products referred to in point (a) are destroyed by a means approved by the competent authority in a manner that ensures that they cannot enter the human food or animal feed chain, unless it can be proved they are not contaminated with dioxins or, that they do not exceed the levels for PCB set out in Annex A;

⁽¹⁾ OJ L 253, 28.9.1999, p. 19.

⁽²⁾ OJ L 55, 8.3.1971, p. 23.

⁽³⁾ OJ L 121, 29.7.1964, p. 2012/64.

⁽⁴⁾ OJ L 368, 31.12.1994, p. 10.

⁽⁵⁾ OJ L 26, 31.1.1977, p. 85.

⁽⁶⁾ OJ L 212, 22.7.1989, p. 87.

- (c) inform immediately the Commission and the Member States, if appropriate by means of the rapid alert system under Directive 92/59/EEC, and third countries concerned of the findings of their investigation and of any actions taken;
- (d) monitor the level of PCBs and dioxins in products of animal origin.

For this purpose, the Member States concerned shall without delay submit a monitoring plan to the Commission.

Article 4

1. By way of derogation from Article 3(b) of this Decision, in accordance with Article 7 of Directive 89/662/EEC, Member States may return products of Belgian origin to which Article 1(1) of this Decision applies and which were derived from animals slaughtered before 20 September 1999 or from eggs laid before that date, to Belgium in cases where analyses of the products for dioxins or PCBs have not been carried out.
2. Paragraph 1 shall apply only if the following conditions are fulfilled:
- (a) Belgium must have authorised in writing the return of the product indicating the exact address of the establishment to which the products must be returned;
- (b) the product must be accompanied by an official certificate as laid down in Annex C and by a copy of the commercial document or the health certificate which accompanied the product from Belgium to the Member State concerned;
- (c) the products must be transported in containers or vehicles sealed by the competent authority of the Member State concerned in such a manner that the seals will be broken whenever the container or the vehicle is opened;
- (d) the products must be conveyed directly to the establishment referred to in point (a);
- (e) Member States which return products to Belgium must inform by telefax the competent authority in charge of the establishment referred to in point (a) of the place of origin and of the place of destination of the returned product giving the details laid down in the Annex to Decision 91/637/EC⁽¹⁾. The words 'Product returned in accordance with Article 4 of Decision 1999/788/EC' must be contained in the telefax;
- (f) Belgium must send confirmation by telefax of the arrival of each consignment to the competent authority of the Member State which returned the product;
- (g) Belgium must ensure that the returned product is placed under restriction until its destruction by a means approved by the competent authority in a manner that ensures that it cannot enter the human food or animal feed chain or until the results of analysis demonstrate that the product is not

contaminated with dioxins or, that it does not exceed the levels for PCB set out in Annex A.

3. Belgium shall keep full records demonstrating compliance with paragraph 2.

Article 5

Belgium shall ensure that the products of Belgian origin which are re-imported into Belgium from third countries in accordance with the conditions laid down in Article 15 of Directive 97/78/EC are placed under restriction until:

- (a) their destruction by a means approved by the competent authority in a manner that ensures that they cannot enter the human food or animal feed chain;
- or
- (b) the results of analysis demonstrate that the products are not contaminated with dioxins or that they do not exceed the levels for PCB set out in Annex A to this Decision.

Belgium shall keep full records demonstrating compliance with this Article.

Article 6

Commission inspections may be carried out in order to verify the implementation of this Decision.

Article 7

Member States shall adopt the necessary measures to bring their trade rules into conformity with this Decision. They shall immediately inform the Commission thereof.

Article 8

This Decision may be reviewed in the light of the results of Commission inspections and of information received by Member States.

Article 9

Decision 1999/640/ECE is repealed.

Article 10

This Decision is addressed to the Member States.

Done at Brussels, 3 December 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 343, 13.12.1991, p. 46.

ANNEX A

Maximum levels for PCB for certain products listed in Article 1(1)

Products	Maximum level PCB ⁽¹⁾
Eggs, egg products, fresh poultrymeat and derived products	200 ng/g fat
Fresh pig meat and derived products	200 ng/g fat ⁽²⁾

⁽¹⁾ Sum of the following PCBs (IUCPA): 28, 52, 101, 118, 138, 153, 180.

⁽²⁾ Provisional level.

ANNEX B

HEALTH CERTIFICATE

for products intended for human or animal consumption of Belgian origin derived from poultry and pigs listed in Article 1(1) of Decision 1999/788/EC

Country of destination

Reference No of this health certificate.....

Responsible Ministry (1)

— Ministère des affaires sociales, de la santé publique et de l'environnement/Ministerie van Sociale Zaken, Volksgezondheid en Leefmilieu

— Ministère des classes moyennes et de l'agriculture/Ministerie van Middenstand en Landbouw

Certifying department

I. Identification of the products (1)

- fresh meat, as defined by Council Directive 64/433/EEC,
— fresh poultrymeat, as defined by Council Directive 71/118/EEC,
— mechanically recovered meat,
— minced meat and meat preparations, as defined by Council Directive 94/65/EC,
— meat products and other products of animal origin as defined by Council Directive 77/99/EEC, with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated,
— products intended for human consumption which contain other products of porcine or poultry origin as defined by Directive 77/99/EEC, which contain more that 2 % of animal fat,
— eggs,
— egg products, as defined by Council Directive 89/437/EEC, with the exclusion of egg white,
— products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat,
— rendered fats, as referred to in Council Directive 92/118/EEC,
— processed animal proteins, as referred to in Directive 92/118/EEC,
— raw material for the manufacture of animal feedingstuffs, as referred to in Directive 92/118/EEC,
— compound feedingstuffs and pre-mixtures.

The product was derived from: poultry/pigs (1)

Nature of packaging

Number of cuts or packages

Net weight

II. Origin of the products

Address and veterinary approval or registration No of the approved or registered establishment

.....

(1) Delete as appropriate.

III. Destination of the products

The product will be sent from
(place of loading)

to
(country and place of destination)

By the following means of transport

Name and address of consignor

Name and address of consignee

IV. Attestation

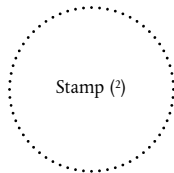
I, the undersigned official competent authority, declare that I am aware of the provisions laid down in Decision 1999/788/EC and certify that the product described above is in compliance with Decision 1999/788/EC and, in particular, that ⁽¹⁾:

— the results of analysis demonstrate that the product is not contaminated with dioxins or, that it does not exceed the levels for certain PCBs set out in Annex A to Decision 1999/788/EC,

or

— the product was derived from animal slaughtered/egg laid ⁽¹⁾ after 20 September 1999

Done at , on
(place) (date)



.....
(signature of the official competent authority) ⁽¹⁾

.....
(name in capital letters, qualification and title)

⁽¹⁾ Delete as appropriate.

⁽¹⁾ The signature and the stamp must be in a colour different to that of the printing.

ANNEX C

HEALTH CERTIFICATE

for products of Belgian origin covered by Decision 1999/788/EC intended to be returned to Belgium from Member States

Country of destination: BELGIUM

Reference No of this health certificate

Responsible Ministry

Certifying department

I. Identification of the product (1):

- fresh meat, as defined by Council Directive 64/433/EEC,
- fresh poultrymeat, as defined by Council Directive 71/118/EEC,
- mechanically recovered meat,
- minced meat and meat preparations, as defined by Council Directive 94/65/EC,
- meat products and other products of animal origin as defined by Council Directive 77/99/EEC, with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated,
- products intended for human consumption which contain other products of porcine or poultry origin as defined by Directive 77/99/EEC, which contain more than 2 % of animal fat,
- eggs,
- egg products, as defined by Council Directive 89/437/EEC, with the exclusion of egg white,
- products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat,
- rendered fats, as referred to in Directive 92/118/EEC,
- processed animal proteins, as referred to in Directive 92/118/EEC,
- raw material for the manufacture of animal feedingstuffs, as referred to in Directive 92/118/EEC,
- compound feedingstuffs and pre-mixtures.

The product was derived from: poultry/pigs (1)

Nature of packaging

Number of cuts or packages

Net weight

II. Origin of the products

Address and veterinary approval or registration No of the Belgian approved or registered establishment (2):

.....

(1) Delete as appropriate.

(2) If applicable.

III. Destination of the products

The product will be sent from
(address of the place of loading)

to
(address of the place of destination)

By the following means of transport

No of the official seal

Name and address of consignor

Name and address of consignee

IV. Attestation

I, the undersigned official competent authority, certify:

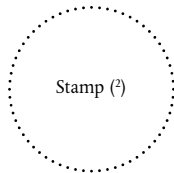
(a) that a declaration has been received from the consignee/holder/retailer ⁽¹⁾ of the product described above stating that the product was consigned from Belgium accompanied by the commercial document/certificate ⁽¹⁾ No a copy of which is attached to the present certificate;

(b) that the product is being returned to Belgium in conformity with Article 5 of Decision 1999/788/EC, and, in particular:

— the product has not been analysed for dioxins or PCBs,
and

— in all other respects the product still retains the same sanitary status which it had on arrival.

Done at on
(place) (date)



.....
(signature of the official competent authority) ⁽²⁾

.....
(name in capital letters, qualification and title)

⁽¹⁾ Delete as appropriate.

⁽²⁾ The signature and the stamp must be in a colour different to that of the printing.