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COMMISSION DECISION
of 20 June 2003
on emergency measures regarding hot chilli and hot chilli products
(notified under document number C(2003) 1970)
(Text with EEA relevance)
(2003/460/EC)
(OJ L 154, 21.6.2003, p. 114)

Corrected by:

► C1 Corrigendum, OJ L 186, 25.7.2003, p. 47 (2003/460/EC)

**COMMISSION DECISION****of 20 June 2003****on emergency measures regarding hot chilli and hot chilli products***(notified under document number C(2003) 1970)***(Text with EEA relevance)**

(2003/460/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 54 thereof,

Whereas:

- (1) Under Regulation (EC) No 178/2002 the Commission is to suspend the placing on the market or use of a food or feed that is likely to constitute a serious risk to human health, and take any other appropriate interim measure when such risk cannot be contained satisfactorily by means of measures taken by the Member States concerned.
- (2) On 9 May 2003, France sent information through the rapid alert system for food and feed relating to discovery of the dye Sudan red 1 in hot chilli products originating from India. There is no evidence that products of Community origin are concerned by such findings
- (3) Available experimental data indicate that Sudan red 1 may be a genotoxic carcinogen. It is, therefore, not possible to establish a tolerable daily intake. Sudan red 1 may also exert sensitising effects by dermal route or inhalation. It has also been classified as a category 3 carcinogen by the International Agency for Research on Cancer (IARC).
- (4) Therefore the findings reported by France point to an adulteration constituting a serious health risk.
- (5) On 5 June 2003, in the light of the possible extent of the problem, France adopted interim protective measures and informed the Commission thereof.
- (6) Accordingly, the Commission must put the matter before the Standing Committee on the Food Chain and Animal Health within 10 working days of the measures having been adopted by France, with a view to the extension, amendment or abrogation of the national interim protective measures.
- (7) Given the seriousness of the health threat, it is necessary to extend the measures taken by France to the whole Community. Moreover, account should be taken of potential triangular trade, especially for products for which there is no official certification of origin. In order to protect public health, it is appropriate to require that consignments of hot chilli and hot chilli products imported into the Community in whatever form, intended for human consumption, should be accompanied by an analytical report provided by the importer or food business operator concerned demonstrating that the consignment does not contain Sudan red 1. For the same reason, Member States shall carry out random sampling and analysis of hot chilli and hot chilli products at import or already on the market.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

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- (8) It is appropriate to order the destruction of adulterated hot chilli and hot chilli products to avoid their introduction into the food chain.
- (9) Since the measures provided for in this Decision have an impact on the control resources of the Member States, the results of these measures should be evaluated at the latest after 12 months in order to assess whether they are still necessary for the protection of public health.
- (10) This evaluation should take account of the results of all analyses carried out by the competent authorities.
- (11) 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

Scope

This Decision applies to the following hot chilli and hot chilli products, in whatever form, intended for human consumption:

- Fruits of the genus *Capsicum*, dried and crushed or ground within CN code 0904 20 90.

Article 2

Conditions for import of hot chilli and hot chilli products

1. Member States shall prohibit the import of hot chilli and hot chilli products defined in Article 1 unless an analytical report accompanying the consignment demonstrates that the product does not contain Sudan red 1 ► **C1** (CAS No 842-07-9). ◀
2. The competent authorities in the Member States shall check that each consignment of hot chilli and hot chilli products presented for importation is accompanied by a report as provided for in paragraph 1.
3. In the absence of such an analytical report, the importer established in the Community shall have the product tested to demonstrate that it does not contain Sudan red 1. Pending availability of the analytical report, the product shall be detained under official supervision.

Article 3

Sampling and analysis

1. Member States shall take appropriate measures, including random sampling and analysis of hot chilli and hot chilli products presented for importation or already on the market in order to verify the absence of Sudan red 1. They shall inform the Commission of positive (unfavourable) results through the rapid alert system for food and feed. Negative (favourable) results shall be reported to the Commission on a three-monthly basis. This report shall be submitted during the month following each quarter⁽¹⁾.
2. Any consignment subjected to official sampling and analysis may be detained before release onto the market for a maximum period of 15 working days.

⁽¹⁾ April, July, October, January.

▼B*Article 4***Splitting of a consignment**

If a consignment is split, a certified copy of the analytical report provided for in Article 2(1) shall accompany each part of the split consignment.

*Article 5***Adulterated consignments**

Products referred to in Article 1 that are found to contain Sudan red 1 shall be destroyed.

*Article 6***Recovery of costs**

In relation to Article 2(1), (3) and Article 5, costs resulting from analysis, storage and eventual destruction shall be borne by the importers or food business operators concerned.

*Article 7***Review of the measures**

This Decision shall be reviewed by 20 June 2004 at the latest.

*Article 8***Addressees**

This Decision is addressed to the Member States.