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HEALTH & CONSUMERS DIRECTORATE-GENERAL

Directorate E - Safety of the food chain
E2 – Food hygiene, Alert system and Training



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FOOD
INFORMATION EXCHANGE

NEWS NOTIFICATION: 10-605
ORIGINAL NOTIFICATION

**SUBJECT: COMMISSION REGULATION (EU) NO 258/2010
IMPOSING SPECIAL CONDITIONS ON THE IMPORTS
OF GUAR GUM FROM INDIA**

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official control on the market - no distribution - no action taken

The contact point from Commission Services has communicated to the Commission the following information:



Commission Regulation (EU) No 258/2010 of 25 March 2010 imposing special conditions on the imports of guar gum originating in or consigned from India due to contamination risks by pentachlorophenol and dioxins, and repealing Decision 2008/352/EC

Information note

Commission Regulation (EU) No 258/2010 of 25 March imposing special conditions on the imports of guar gum originating in or consigned from India due to contamination risks by pentachlorophenol and dioxins, and repealing Decision 2008/352/EC was published in the Official Journal of the European Union on 26 March 2010 (OJ L 80, 26.3.2010, p. 28)

Transitional provisions

Article 13 provides that the Regulation enters into force on the twentieth day following that of this publication in the Official Journal of the European Union, i.e. 15 April 2010. From that day onwards Commission Decision 2008/352/EC is repealed.

Article 12 as regards transitional provisions provides that, by way of derogation from the requirement that all consignments have to be accompanied by a health certificate and an analytical report, the import of consignments of guar gum which left the country of origin before 1 April 2010 accompanied by an analytical report as provided by Decision 2008/352/EC is authorised. Member States are recommended, due to an inconsistency between the date of application (15 April 2010) and the date mentioned in Article 12, to apply the transitional provisions foreseen in Article 12 to consignments of guar gum which have left India by 14 April 2010 (before 15 April 2010), i.e. to authorise the import of consignments of guar gum which have left India by 14 April 2010 at the latest (before 15 April 2010), on the condition that the consignments comply with the provisions of Commission Decision 2008/352/EC.

Health certificate

The authorities from India have been informed of the envisaged measures on 15 January 2010, including on the requirement of a health certificate. After some discussions, the Indian authorities committed to put in place the measures. The European Commission informed that the date of application was likely to be April 2010.

On 8 April 2010, the Indian authorities sent the European Commission a request for postponement of the measures provided for in Regulation (EU) 258/2010 until 1 June 2010. After discussions of the European Commission with the Indian authorities with on this, the Indian authorities made the commitment on 20 April 2010 to apply the measures without delay.

The European Commission has asked the Indian authorities to provide details on the certification system (name of laboratories performing the analysis, list of officials signing the certificate), but this information was not yet received. Once received, you will immediately be informed thereof.

Clarification of Article 9 of Regulation (EU) 258/2010.

Since a few days, wrong interpretations are circulating as regards Article 9.

Article 9 of Regulation (EU) 258/2010 provides that *"The non-compliant products shall be safely disposed of, in accordance with the provisions of Article 19 of Regulation (EC) N0 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules"*

Article 19 of Regulation (EC) 882/2004 provides that:

The non-compliant consignment originating in or consigned from a third country is placed under official detention by the competent authority and, **after having heard the food business operator responsible for the consignment, the following measures in respect of that consignment are taken** (bold and underlining added) :

- order that such food be destroyed

- subjected to **special treatment**

The special treatment must take place in establishments under the control of the competent authority and may include

- treatment or processing to bring the food into line with the requirements of Union law, or with the requirements of a third country of re-dispatch, including decontamination, where appropriate, but excluding dilution
- processing in any other suitable manner for purposes other than animal or human consumption.

- **re-dispatched outside the Union**. Pending re-dispatch of consignments, the competent authority shall place the consignments under official detention. The re-dispatch of the consignment is allowed by the competent authority only if

* the destination has been agreed with the food business operator responsible for the consignment; and

* the food business operator has first informed -and provided proof to- the competent authority of the third country of origin or third country of destination, if different, of the reasons and circumstances preventing the placing on the market of the feed or food concerned within the Union; and

* where the third country of destination is not the third country of origin, the competent authority of the third country of destination has notified the competent authority of its preparedness to accept the consignment.

- **other appropriate measures such as the use of the feed or food for purposes other than those for which they were originally intended "**

Therefore for the safe disposal of guar gum containing non compliant levels of PCP, there are at least the possibilities of re-dispatch outside the Union (under the conditions mentioned above) or the use other than for feed and food (and consequently not only destruction)