EUROPEAN COMMISSION
HEALTH AND FOOD SAFETY DIRECTORATE-GENERAL

Food and feed safety, innovation
Pesticides and Biocides

Brussels,
SANTE/E4/SK/mb(2020)602391

Dear Mr Bartolo,

Subject: Reply to Seafood Importers and Processors Alliance's (SIPA) comments regarding chlorate residues on seafood

Thank you for your letter of 28 November 2019 (ref: Ares(2019)7367321) in which you share SIPA's concerns on the latest RASFF notifications regarding chlorate residues on seafood.

This topic was discussed during the meeting of the Standing Committee on Plants, Animal, Foods and Feed – Section Pharmaceuticals, Pesticide Residues (SCoPAFF) held on 25-26 November 2019.

Chlorate was previously used as an active substance in plant protection products and is therefore included in the scope of Regulation (EC) No 396/2005[1], which sets Maximum Residue Levels (MRLs) for commodities included in its Annex I. Fish and fish products are included in this Annex, however footnote (8) concerning category "1100000 – Products of animal origin – Fish, fish products and any other marine and freshwater food products", specifies that *"No MRLs are applicable until individual products have been identified and listed within this category"*. There is currently no product listed under this category, hence MRLs are not applicable to such products.

You state in your letter that "*A certain level of chlorate residues in seafood is unavoidable because fishery products are washed in water, and some products also contain added water. This water has in most cases been treated with a chlorine-based disinfectant in order to ensure its microbiological quality. Even when best practice is employed the water may contain a small but unavoidable chlorate residue. This residue will transfer into the fishery product.*"

The EU hygiene legislation (Annex II, Section VIII point 3(c) of Regulation (EC) No 853/2004)[2] states that the water used for handling and washing fishery products must be either potable or, where appropriate, clean water or clean seawater as defined in Article 2(h) and (i) of Regulation

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[1] Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC, OJ L 70, 16.3.2005, p.1

[2] 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, OJ L 139, 30.4.2004, p.55

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852/2004[3]. The same precisions are indicated in §3.1.2 of the relevant Codex Alimentarius Standard[4]. Ice used to chill fishery products must also be made from potable or clean seawater. The levels of chlorate as reported in the RASFF notifications you are referring to are clearly indicating a hyper-chlorination of the water used for washing pangasius fillets from Vietnam, a process that is forbidden unless specifically authorised in accordance with Article 3(2) of Regulation (EC) No 853/2004.

Hyper-chlorinated water cannot be considered as potable water, and in the absence of any specific authorisation, import of fishery products washed in hyper-chlorinated water is thus against the EU rules. For that reason we ask you to inform your associated and the exporting companies that this practice is not acceptable. The Commission auditors are in copy of this letter.

Please do not hesitate to contact us again in case you have further questions.

Yours sincerely,

Klaus Berend
Head of Unit

Cc: Mr Eric Thevenard, Mr Philippe Loopuyt, Mr Frank Andriessen, Ms Almut Bitterhof, Mr Paolo Caricato, Mr Stephanos Kirkagaslis (DG SANTE)

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[3] Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, OJ L 139, 30.4.2004, p. 1–54

[4] CAC/RCP 52-2003, 'Code of Practice for Fish and Fishery Products"