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HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Directorate F - Food and Veterinary Office

DG(SANCO) 2012-6367 - MR FINAL

FINAL REPORT OF AN AUDIT

CARRIED OUT IN

THE NETHERLANDS

FROM 26 NOVEMBER TO 05 DECEMBER 2012

IN ORDER TO EVALUATE THE CONTROL SYSTEM IN PLACE GOVERNING THE PRODUCTION OF MECHANICALLY SEPARATED MEAT

Executive Summary

This report describes the outcome of a Food and Veterinary Office (FVO) audit in the Netherlands, which took place from 26 November to 5 December 2012, in order to evaluate the control system in place governing the production of mechanically separated meat (MSM).

The report concludes that there is an official control system implemented in the Netherlands to control the production and use of MSM. Official controls were overall adequate, nevertheless failed to identify certain deficiencies and failed to enforce certain requirements concerning general hygiene, Hazard Analysis Critical Control Points (HACCP) based procedures and specific requirements for MSM production.

The system for approval of establishments is in line with the relevant European Union (EU) requirements. However, the CA of the Netherlands failed to address a recommendation in previous FVO reports on the implementation of adequate measures when approval conditions are not met.

Moreover, the position taken by the CA of the Netherlands regarding labelling for final consumers of products containing MSM is not in line with the relevant EU legislation and the EU requirements concerning labelling for final consumers are not enforced.

The report includes a number of recommendations addressed to the CA of the Netherlands , aimed at rectifying the shortcomings and deficiencies identified and enhancing the implementation of the official control system in place.

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Abbreviations and definitions used in this report

Abbreviation	Explanation
CA(s)	Competent Authority(ies)
CCA(s)	Central Competent Authority(ies)
EC	European Commission
EU	European Union
FBO(s)	Food Business Operator(s)
FVO	Food and Veterinary Office
HACCP	Hazard Analysis of Critical Control Points
Hygiene Package	Regulations (EC) No 852/2004, No 853/2004 and No 854/2004
OJ	Official Journal
MSM	Mechanically Separated Meat
RASFF	Rapid Alert System for Food and Feed
SANCO	Health & Consumers Directorate General of the European Commission
NVWA	*Nederlandse Voedsel-en Warenautoriteit*, Netherlands Food and Consumer Product Safety Authority

1 Introduction

The audit took place in the Netherlands from 26 November to 05 December 2012 and was undertaken as part of the FVO's audit programme.

The audit team comprised three auditors from the FVO. Representatives from the CA accompanied the team during the whole audit.

An opening meeting was held on 26 November 2012 in Utrecht with representatives from the Central Competent Authority (CCA), the *Nederlandse Voedsel-en Warenautoriteit,* the Netherlands Food and Consumer Product Safety Authority – hereafter referred to as the NVWA. At this meeting the audit team confirmed the objectives of, and itinerary for the audit, requested the clarification of certain points of the information provided by the CCA before the audit and requested additional information regarding specific elements of the control system in place.

2 Objectives

The objectives of this audit were to assess, in the sector of production of MSM, whether:

- the general rules for performance of official controls laid down in Regulation (EC) No 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, are complied with, and
- the official control system in place for the production chain and placing on the market of MSM is in compliance with EU requirements (MSM is defined in Regulation (EC) No 853/2004 (Annex I, point 1.14) and specific requirements for their production are described in Annex III, Section V of the same Regulation).

The table below lists the sites visited and the meetings held in order to achieve the above objectives:

COMPETENT AUTHORITIES			**Comments**
Competent authorities	Central	2	Opening and closing meetings
FOOD PROCESSING FACILITIES			
Cutting premises		2	One for pork and one for poultry, integrated in MSM production establishments
MSM production establishments		5	Two establishments producing MSM from pork and three from poultry
Meat product / Meat preparation establishments		3	Producing heat treated meat products

3 Legal Basis

The audit was carried out under the general provisions of EU legislation and, in particular Article 45 of Regulation (EC) No 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.

Full EU legal references are provided in Annex 1. Legal acts quoted in this report refer, where applicable, to the latest amended version.

4 Background

4.1 Previous fvo audit

This was the first audit to the Netherlands specifically on MSM.

4.2 Production and trade information

The information in the tables below was provided by the CCA. The first table indicates the quantity of MSM (in metric tonnes) produced in the Netherlands in 2011 and in 2012 broken down by species:

Species	**2011**	**2012***
Poultry	173 099	159 895
Pork	9 658	10 396
Total	**182 757**	**170 291**

* Data of 2012 is based on the data January-August/September and they show the expected total volume of 2012 by extrapolation.

The second table below details the trade and import / export of MSM from / to establishments producing and using or trading MSM. It does not include MSM directly traded and / or imported by meat preparation and meat product establishments.

	2010	**2011**
MSM sent to the Netherlands (metric tonnes)		
From other Member States	2 361	360
From Third Countries	-	-
MSM sent from the Netherlands (metric tonnes)		
To other Member States	43 617	36 219
To Third Countries	35 102	45 113

There has been one Rapid Alert System for Food and Feed (RASFF) notification linked to MSM produced in the Netherlands in the past three years. However, the actions taken by the Dutch CA following the notification were not assessed during the present audit.

5 Findings And Conclusions

5.1 Competent Authorities

Legal requirements

Articles 4, 8, 54 and 55 of Regulation (EC) No 882/2004. Section III of Annex I to Regulation (EC) No 854/2004, in particular Chapter IV.

Findings

The sector of MSM in the Netherlands is under supervision of the NVWA and the system of official controls is the same as for all other food of animal origin.

All official controls are carried out by NVWA officials and they are organized at central level. Slaughterhouses and cutting plants with MSM production plants are inspected by veterinarian teams from the Division of Veterinary Affairs and Import Controls. Stand-alone MSM production plants and those connected to a meat product of meat preparation plant are inspected by teams of food inspectors from the Division Consumer Affairs and Safety. No major issues were identified by the audit team in relation to co-ordination and cooperation between the two Divisions of the CA. The main differences noticed were in relation to the frequency of official controls, which was higher in MSM establishments co-located with slaughterhouse or cutting plant, and in the professional qualification of the inspector in charge, as in the C&S Division the inspectors may not be necessarily veterinarians (as in the Division of Veterinary Affairs and Import Controls) but also food technologists. All inspectors act as officials to ensure that there is no conflict of interests.

A more detailed description of the CAs and of the system of official controls can be found in the Country Profile for the Netherlands on the following web site:

http://ec.europa.eu/food/fvo/country_profiles_en.cfm and in particular for the sector audited, in reports DG(SANCO)/2011-6008 and DG(SANCO)/2011-6019.

The audit team noticed that officials have adequate legal powers to perform official controls and to enforce the relevant legislation. Inspections were carried out with the help of check-lists and results of official controls were recorded in a data base, available to all inspectors. In all establishments visited reports of official controls were made available to the audit team.

Official controls are risk-based, and the main risk criterion taken into account is the FBO's level of compliance. The set frequency of official controls was generally met in the establishments visited. Minor deficiencies were followed by an oral warning, whereas non-compliances with implications for food safety were followed by a letter of written warning to the FBO. However, in one establishment visited in some cases this had not been strictly implemented and non-compliances had received only an oral warning. A representative of the CA explained that certain non-compliances were understood and interpreted differently by the officials, and therefore their classification needs to be further harmonised.

Evidence of follow-up inspections was also available.

Conclusions

The Dutch CAs are clearly designated and have adequate legal powers to perform official controls within the scope of this audit, in line with the requirements of Article 4 of Regulation (EC) No 882/2004.

5.2 Legislation, implementation measures and guidelines

Legal requirements

Article 291 of the Treaty on the functioning of the EU requires that the Member States adopt all measures of national law necessary to implement legally binding Union acts.

Article 7 of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29April 2004, on the hygiene of foodstuff, stipulates that Member States shall encourage the development of national guides to good practise for hygiene and for the application of Hazard Analysis – Critical Control Points (HACCP) in accordance with Article 8 of the Regulation. Article 8(1) of the same Regulation stipulates that national guides to good practice shall be developed and disseminated by food business sectors in consultation with the stakeholders.

Findings

In the Netherlands there is no legislation for MSM other than Regulations (EC) No 852/2004, 853/2004 and 2073/2005. These Regulations are anchored in Dutch legislation (Food Act, *Warenwetbesluit Hygiëne van levensmiddelen*, Article 2).

Directive 2000/13/EC on labelling, presentation and advertising of foodstuffs is fully implemented in the Dutch legislation (Food Act) '*Warenwetbesluit Etikettering van levensmiddelen'*, and there are no additional provisions.

An in-depth review of the above Dutch legislation was not performed.

The CAs have detailed instructions in place on how to carry out official controls in different types of establishments, contained in the relevant guidelines and in so-called 'project protocols'. Guidance is also available on the CCA website for officials and food business operators (FBOs). However, there are no specific guidelines or instructions for official controls in the sector of MSM.

The CCA stated that nonetheless they have taken a position with regard to certain EU requirements:

- In their response to the pre-audit questionnaire, the CCA stated that MSM can be indicated as 'meat' on labels of meat preparations and meat products if the MSM used has been obtained under the following conditions: bones are not crushed or damaged; there is no increased level of calcium or bone fragments; there is no loss or modification of the muscle fibre structure.
- In January 2011 the Ministry of Health, Welfare and Sport decided that 'low pressure' MSM should not be indicated on the labels of meat preparations / meat products for final consumers. This position was taken despite this Ministry considers both types of MSM, low and high pressure, as fulfilling the criteria for MSM. However, this Ministry based their decision on the considerations that low pressure MSM is not visually distinguishable from minced meat, and that low pressure MSM in the Netherlands was already not labelled as MSM by the Meat Industry. This decision followed the 'Communication (COM 2010/704) to the European Parliament and to the Council on the future necessity and use of mechanically separated meat in the European Union, including the information policy towards consumers'.
- In March 2012 the CCA informed Directorate General for Health and Consumers (DG/SANCO) of their support of the Dutch Meat Industry position that 'three millimetre meat' is not MSM. The Dutch Meat Industry is in favour of the creation of

a new category for this type of product and indicated that the "use of beef for the production of three millimetre meat" should be considered. Nevertheless, the CCA at the opening meeting stated that MSM from ruminants' bones is not produced in the Netherlands and that this is strictly enforced.

- Concerning the interpretation of the term 'immediately' contained in point 3(b), Chapter III, Section V, Annex III to Regulation (EC) No 853/2004 (mechanically separation must take place immediately after deboning), the CCA stated that establishments comply if the flesh bearing bones / carcasses are produced in a co-located cutting plant or collected from establishments within the Netherlands. This has not been clarified in guidance to inspectors and can be subjected to different interpretation.

Conclusions

The CAs have adequate implementing legal measures in place for the performance of official controls in the sector of MSM.

However, the position taken by the Dutch Ministry of Health, Welfare and Sport not to declare on the label of products for final consumers the presence of MSM is in breach of the provisions of Directive 2000/13/EC concerning labelling and of Article 16 of Regulation (EC) No 178/2002, stating that labelling shall not mislead consumers.

Moreover, because of the incorrect interpretation of the term 'immediately' contained in point 3(b), Chapter III, Section V, Annex III to Regulation (EC) No 853/2004, the MSM produced in such instances does not meet the requirements for the type of MSM referred to in point 3, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004.

5.3 Official controls over the production and placing on the market

5.3.1 Approval procedures

Legal requirements

Article 6 of Regulation (EC) No 852/2004,

Article 4 of Regulation (EC) No 853/2004.

Article 31 (2) of Regulation (EC) No 882/2004.

Findings

The system for approval of establishments and for reviewing the maintenance of approval conditions is described in reports DG(SANCO)2011-6008 and DG(SANCO)2011-6019.

Establishments already producing MSM before the applicability of the Hygiene Package (i.e., before 1.1.2006) have been granted a specific approval for MSM.

The approval documents of the establishments visited were always available. The audit team in one establishment saw an example of new approval for MSM production, which was in line with the CCA procedures and with the relevant EU requirements. In all establishments visited there was documented evidence that approval conditions are kept under review with the annual 'system inspection'.

The audit team noticed in several cases that establishments were holding approvals for activities no longer or never carried out. In such instances, the conditions for maintaining the

approval (e.g., infrastructure, rooms, equipment, HACCP based procedures) were no longer met and the report of the annual system inspection for the maintenance of approval indicated 'not applicable' in the relevant field. This finding was already highlighted by the FVO in reports DGSANCO)/2011-6008 and DG(SANCO)/2011-6019. The CCA action plan in response to the relevant recommendations of the above reports indicated that in 2012 'action will be taken to ensure that procedures will be followed correctly'.

In one establishment visited the production of meat preparations and the activity of re-wrapping had not been taken into account when approval documents had been re-issued after 2006. Similarly another establishment carried out the re-wrapping activity without being approved for this.

For the above reasons, the list of approved establishments published on the CCA website was not fully up-to-date.

Conclusions

The system for approval of establishments is in line with the relevant EU requirements. However, the Dutch CA failed to address a recommendation in previous FVO reports concerning the implementation of adequate measures when approval conditions are not met (Article 31 of Regulation (EC) No 882/2004).

Moreover, the listing of approved establishments was not fully up-to-date, contrary to the provisions of Article 31(2) of Regulation (EC) No 882/2004.

5.3.2 Official controls at MSM production establishment level

Legal requirements

Article 4 of Regulation (EC) No 854/2004

Article 9 of Regulation (EC) No 999/2001

Findings

The audit team visited five establishments producing MSM, of which two from pork and three from poultry.

Findings concerning general hygiene requirements

In the establishments visited the general hygiene requirements and the state of maintenance were overall adequate. Official controls had identified deficiencies and most of these had been corrected. Nevertheless, the audit team noticed during the visits certain deficiencies which had been repeated in the reports of official controls or which had not been identified, for example (not all deficiencies were present in all establishments):

- The presence of condensation above exposed products.
- Plastic containers with raw material coming from another member State or from establishments within the Netherlands, already accepted by the FBO, were insufficiently clean and with wrapping material which had been partially damaged during transport. In some cases poultry carcasses were on top of the wrapping foils. This issue with the plastic containers was already highlighted in report DG(SANCO)/2011-6008 and the CCA indicated that a letter had been sent to the Member State concerned. However, no reply had been received.
- Inadequate hygiene practice when unwrapping or handling exposed raw material or wrapping pallets with MSM.

- Insufficient state of cleanliness in certain areas, e.g. on overhead fixtures, machines, around a conveyor belt for exposed frozen blocks of MSM.
- Inadequate storage of wrapping material.
- Insufficient frequency of cleaning of equipment in two establishments, where the production of MSM was a continuous process for 24 hours for 5 days and cleaning was performed once a week. The results of microbiological analysis performed on MSM in one of these 2 establishments demonstrated that the microbiological contamination was higher at the beginning of the week.
- The use of dirty wooden pallets in producing areas; stacks of pallets of frozen MSM insufficiently protected from wood splinters.

The above deficiencies are not in compliance with several provisions of Regulation (EC) No 852/2004.

In addition, in one establishment, animal by-products category 3 material was incorrectly labelled as material for re-working.

All establishments visited had HACCP based procedures in place and the relevant records were kept. Although the HACCP based procedures assessed by the audit team were generally in compliance with the provisions of Article 5 of Regulation (EC) No 852/2004, these procedures were in some instances incomplete:

- In no establishment were the FBOs' procedures for accepting flesh/bearing bones or poultry carcasses requested to verify the delay between slaughter and deboning (points 3(a) and 4(a) of Chapter III, Section V, Annex III to Regulation (EC) No 853/2004), but only to verify that the delay between slaughter date and reception date is no more than three or five days. In most cases only the slaughter date was indicated on the label or on the commercial documents. In some cases the information was indirectly acknowledged, i.e. the slaughter was only one or two days before reception of the flesh bearing bones / carcasses. However, in some cases (for poultry) more than three days had passed from slaughter to the reception of the carcasses in the MSM establishment and thus no evidence was available that poultry carcasses were no more than three days old when deboned. Both FBOs and CAs informed the audit team that deboning of poultry always takes place on the day of slaughter or on the following day, thus indirectly ensuring that the material received for MSM production comply with the EU requirements on age.
- In all establishments own checks were performed on the temperature of the flesh bearing bones / carcasses at their reception (Section V, Chapter III(1)(a) of Annex III to Regulation (EC) No 853/2004). However, there were no procedures in place to check the temperature of transport of the flesh bearing bones / carcasses, i.e. the temperature of the truck at delivery (point 4(b), Chapter III, Section V, Annex III to Regulation (EC) No 853/2004).
- The HACCP based procedures were incomplete in one establishment, as there was no procedure in place to ensure the maintenance of the cold chain during production (see also the next part of this section).

The above issues had not been identified during official controls.

Findings concerning specific MSM requirements

One establishments visited was producing the type of MSM referred to in point 3, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004. This establishment had a co-

located cutting plant and the flesh bones obtained were immediately processed for the production of MSM.

Another establishment declared that the MSM produced was the type referred to in point 3, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004. However, MSM was produced from flesh-bearing bones purchased from other establishments in the Netherlands and in other Member States, therefore not meeting the requirement of 'separation immediately after de-boning'. Because of this, the MSM produced did not comply with the relevant requirements, e.g. the shelf-life.

The remaining three establishments were producing the type of MSM referred to in point 4, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004.

The audit team noticed the following deficiencies which had not been reported in previous official controls:

- During separation, some turkey carcasses with haemorrhages were used in one establishment; parts of poultry digestive tracts, pieces of legs (the distal part of the tibia) and contaminated skin pieces were used in another establishment.
- Blocks of frozen MSM were left in the production room in one establishment for some hours after having been blast frozen, instead of being wrapped and moved to the cold store. Their core temperature had risen from -20°C to -9°C. This is not in compliance with the provisions of paragraph 5, Chapter IX, Annex II to Regulation (EC) No 852/2004, which specifies that the cold chain can only be interrupted for limited periods and under certain conditions, provided that it does not result in a risk to health. No risk analysis had been made for this purpose, and this procedure was not described in the HACCP plan. Several containers with MSM already produced were also left in the processing room for up to six hours before being frozen; the temperature of the MSM measured in two containers was +5.8°C and +7.5°C. This is not in compliance with the requirements of paragraph 4(d), Chapter III, Section V, Annex III to Regulation (EC) No 853/2004, which specifies that if not used within one hour of being obtained, MSM must be chilled immediately to a temperature of no more than 2°C.
- After separation, the bones were re-processed for a further separation in two establishments. In one case these residual bones were directly pumped back onto the separator machine, whereas in the other establishment the residual bones were collected in containers for further processing; in this instance the processed bones had been waiting for at least six hours and their temperature was 5.7ºC.
- No studies had been performed in one establishment to demonstrate that the temperature of -18ºC was reached within six hours (point 4(e), Chapter III, Section V, Annex III to Regulation (EC) No 853/2004).

The analyses of the calcium content of the MSM as referred to in point 3, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004 was performed and it was lower than 1 000 ppm (Annex IV to Regulation (EC) No 2074/2004).

In relation to shelf-life of MSM, the official controls carried out in in 2012 had identified in two of the establishments visited by the audit team that the shelf-life declared was incorrect. Adequate corrective action had been taken by the FBOs. In the remaining establishments visited the shelf-life declared for the MSM produced was in compliance with the relevant EU requirements.

The audit team noticed that in some instances not all important information reported on

technical specifications was also indicated on the MSM pallets or on other documentation:

- The product was always clearly described in the technical specifications as MSM, whereas denominations other than MSM were in most cases used on pallet labelling and / or commercial documents, such as: 'DMM vlees gf' or 'standardvlees GF', 'ground pork', '3mm chicken MDM' or 'RSPlastic', 'chicken MDM', 'chicken baader meat (msm)', viande de filet de poulet 3 mm'. One FBO declared that denominations other than MSM are used at the customers' request. The incorrect denomination of MSM and the absence of the mention 'to be used only for heat treated meat products' had been identified in one establishment in 2011 during official controls. Corrective action had been taken by the FBO.
- The shelf-life of the MSM was in some cases indicated only on the technical specifications.
- The indication 'to be used for heat treated meat products' was always reported on both pallet labels and technical specifications, except in one establishment where it was only indicated on the technical specifications.

In the cases where MSM is sold to intermediate traders, the technical specifications do not always accompany the consignments to the customers, meaning that important information concerning the correct description of MSM, its shelf-life and limitation of use is missing (see also section 5.3.4).

Conclusions

Although official controls in establishments producing MSM were overall adequate, the CA failed to enforce certain requirements and to identify some deficiencies concerning general hygiene requirements, HACCP based procedures and specific requirements for MSM production.

In addition, the MSM sold to other establishments for trade or for further processing was not always accompanied by important information (such as shelf-life and limitation of use) and was not always correctly and consistently identified as such to allow, when used in meat preparations or in meat products, the FBOs to declare its presence on labels in accordance with the provisions of Directive 2000/13/EC.

5.3.3 Official controls at level of establishments producing raw material

Findings

The audit team visited one pig and one poultry cutting plant processing the flesh-bearing bones / carcasses in the same establishment for MSM production.

The audit team noticed during these visits that hygiene and temperature conditions of production and storage of the raw material produced were overall in compliance with EU legal requirement. Nevertheless, in one establishment the plastic foil put on top of containers with raw material for MSM production was inadequate as it broke easily when containers were put on top of each other, exposing the flesh bearing bones to contamination.

Conclusions

Official controls in establishments producing raw material for MSM were overall adequate, albeit in one establishment visited failed to identify certain hygiene deficiencies.

5.3.4 Official controls at level of establishments using MSM

Findings

The audit team visited three establishments producing heat treated meat products. Two of these establishments were also approved for meat preparations but it was found on the spot that such products were never or were no longer produced (see also section 5.3.1 of this report).

Some maintenance deficiencies had been identified during official controls and action plans were in place to correct them. However, the following was noticed by the audit team during the visits:

- The inadequate storage of packaging material, although previously detected by the CA in one establishment, had not been corrected.
- The presence of dirty material in an open duct for waste water in the production room in one establishment.

In two of the establishments visited there was no evidence of the type of MSM used (on technical specifications from suppliers, commercial documents or labels), although the intended use only for heat treated meat products was indicated. In the third establishment, the technical specification of only one out of four MSM suppliers clearly described the type of MSM with the precise legal reference.

Conclusions

The official controls carried out in establishments using MSM in meat products were overall adequate. Nevertheless official controls failed to identify certain deficiencies in the establishments visited.

5.3.5 Official controls on FBOs compliance with microbiological criteria for foodstuffs

Legal requirements

Article 4 of Regulation (EC) No 854/2004.

Article 11 of Regulation (EC) No 882/2004.

Regulation (EC) No 2073/2005.

Findings

FBOs sampling activities

In all establishments visited a sampling plan for microbiological analysis was in place, including those establishments producing the type of MSM referred to in point 4, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004, for which there are no microbiological criteria to be complied with.

Results of the analyses performed were available. Analyses were performed in accredited external laboratories and in-house laboratories with methods in line with Regulation (EC) No 2073/2005. When alternative methods were used, these had been were validated according to Article 5(5) of Regulation (EC) 2073/2005.

The FBO's sampling for microbiological criteria was part of the official controls.

Official sampling

Official sampling of MSM has been performed in 2010 and in 2012, the latter as part of a specific project. In 2012, 25 official samples of MSM batches were taken in all but one establishment producing MSM. 58% of samples resulted not in compliance for *Salmonella*, 21% not in compliance for *E. coli* and 16% not in compliance for the aerobic colony count.

The CCA stated that on the basis of the results of the above official sampling and of the official controls on MSM production, a policy and a plan for official controls in this sector will be drafted for 2013.

Conclusions

Official controls on the FBO's compliance with microbiological criteria were overall adequate. Moreover, the CA intend to further develop the policy and plan for official sampling in this sector in order to address the high number of non-compliances identified by the official sampling.

5.3.6 Traceability – Labelling – Identification marking

Legal requirements

Regulation (EC) No 178/2002 (traceability and labelling)

Article 4(2) of Regulation (EC) No 854/2004 and Chapter IV, Section V, Annex III to Regulation (EC) No 853/2004 (labelling)

Article 4.6 of Regulation (EC) No 854/2004; Section I, Annex II of Regulation (EC) No 853/2004 (identification marking)

Findings

Traceability

Traceability was part of official controls as one of the optional inspections to be carried out. Where traceability was assessed by the audit team in the establishments visited traceability systems were in place and the exercises performed were satisfactory.

Labelling

Official controls on labelling have not been performed in the establishments visited in the last few years, except in one. In this establishment, in 2010 the official controls detected various non compliances with the requirements of Directive 2000/13/EC, including undeclared MSM. The CA stated that at the time the legislation on labelling was strictly enforced and issued a written warning.

In this and in the other two establishments visited MSM in meat products was not declared on the labels for final consumers, with few exceptions:

- In one establishment, since May 2012 and depending on the customers' request (big supermarket chains in another Member State) the MSM was mentioned on labels or was no longer used in certain products.
- In another establishment, the presence of MSM was declared only for one product and not for others.
- In the third establishment the denomination of MSM on labels of some meat products was incorrect in some languages. In addition, minced chicken skin added as an ingredient was included in the MSM percentage.

With reference to the CCA position regarding labelling (see section 5.2 of this report), and which refers only to the so-called 'low pressure' MSM (i.e., the MSM referred to in point 3, Chapter III, Section V, Annex III to Regulation (EC) No 853/2004), there was little evidence that the type of MSM used was taken into account in the establishments visited. Technical specifications from suppliers, commercial documents and labels did not indicate the type of

MSM, except for one supplier out of four in one establishment.

The audit team reviewed the labels of meat preparations containing MSM and of other meat products produced in two establishments which were not visited during this audit, and provided by the CCA at the team's request. MSM was not declared on labelling and it was counted toward the meat content. In addition, there was no clear notice for the meat preparations indicating that these products must be cooked before consumption (point 2, Chapter IV, Section V, Annex III to Regulation (EC) No 853/2004).

Identification marking

In the establishments visited products were correctly identified with appropriate health marks.

Conclusions

Official controls on traceability and identification marking were adequate.

The CA do not enforce the provisions of Directive 2000/13/EC concerning the indication of the presence of MSM in meat products and in meat preparations and allows this practice which is misleading for the consumers (Article 16 of Regulation (EC) No 178/2002).

The official controls failed to ensure that the requirements concerning labelling for final consumers of meat preparations containing MSM are met (Chapter IV, Section V, Annex III to Regulation (EC) No 853/2004).

6 Overall Conclusions

There is an official control system implemented in the Netherlands to control the production and use of MSM. Official controls were overall adequate, nevertheless failed to identify certain deficiencies and failed to enforce certain requirements concerning general hygiene, HACCP based procedures and specific requirements for MSM production.

The system for approval of establishments is in line with the relevant EU requirements. However, the CA of the Netherlands failed to address a recommendation in previous FVO reports on the implementation of adequate measures when approval conditions are not met.

Moreover, the position taken by the CA of the Netherlands regarding labelling for final consumers of products containing MSM is not in line with the relevant EU legislation and the EU requirements concerning labelling for final consumers are not enforced.

7 Closing Meeting

During the closing meeting held in Utrecht on 05 December 2012, the audit team presented the main findings and preliminary conclusions of the audit to the CA.

During this meeting, the CCA acknowledged all the findings and preliminary conclusions presented by the audit team and provided additional information and documentation relevant to the scope of this audit.

8 RECOMMENDATIONS

An action plan describing the action taken or planned in response to the recommendations of this report and setting out a time table to correct the deficiencies found should be presented to the Commission within 25 working days of receipt of the report.

N°.	Recommendation
1.	The Competent Authority should ensure that when carrying out official controls, the review of approval conditions is accurate and appropriate action is taken when the conditions are not met, as required by Article 31 of Regulation (EC) No 882/2004.
2.	The Competent Authority should ensure that the listing of approved establishments is kept up-to-date, as required by Article 31(2) of Regulation (EC) No 882/2004.
3.	The Competent Authority should ensure that the effectiveness of official controls as required by Article 4(2)(a) of Regulation (EC) No 882/2004 is improved, so that deficiencies concerning general hygiene requirements, Hazard Analysis Critical Control Points based procedures and specific requirements for mechanically separated meat production are detected.
4.	In order to comply with the European Union requirements, the Competent Authority should ensure that deficiencies found are corrected in the establishments visited and are not present in other approved establishments (Article 54 of Regulation (EC) No 882/2004).
5.	The Competent Authority should ensure that the provisions of Directive 2000/13/EC concerning the indication of the presence of mechanically separated meat and of other ingredients in meat products and in meat preparations are enforced, as well as the requirements concerning labelling of meat preparations containing mechanically separated meat laid down in Chapter IV, Section V, Annex III to Regulation (EC) No 853/2004.
6.	The Competent Authority should ensure that mechanically separated meat sold to other establishments is accompanied by the necessary information which allows food business operators to use it in meat preparations and meat products in accordance with the requirements of points 3(e) and 4(g), Section V, Annex III to Regulation (EC) No 853/2004, and to label the product destined to the final consumer in accordance with the requirements of Directive 2000/13/EC and of paragraph 2, Section VI, Annex III to Regulation (EC) No 853/2004.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_inspection_ref=2012-6367

Annex 1 - Legal References

Legal Reference	Official Journal	Title
Reg. 178/2002	OJ L 31, 1.2.2002, p. 1-24	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
Reg. 852/2004	OJ L 139, 30.4.2004, p. 1, Corrected and re-published in OJ L 226, 25.6.2004, p. 3	Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs
Reg. 853/2004	OJ L 139, 30.4.2004, p. 55, Corrected and re-published in OJ L 226, 25.6.2004, p. 22	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
Reg. 854/2004	OJ L 139, 30.4.2004, p. 206, Corrected and re-published in OJ L 226, 25.6.2004, p. 83	Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 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
Reg. 2073/2005	OJ L 338, 22.12.2005, p. 1-26	Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs

Legal Reference	Official Journal	Title
Reg. 2074/2005	OJ L 338, 22.12.2005, p. 27-59	Commission Regulation (EC) No 2074/2005 of 5 December 2005 laying down implementing measures for certain products under Regulation (EC) No 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) No 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004
Reg. 999/2001	OJ L 147, 31.5.2001, p. 1-40	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies
Reg. 2076/2005	OJ L 338, 22.12.2005, p. 83-88	Commission Regulation (EC) No 2076/2005 of 5 December 2005 laying down transitional arrangements for the implementation of Regulations (EC) No 853/2004, (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004
Reg. 16/2011	OJ L 6, 11.1.2011, p. 7-10	Commission Regulation (EU) No 16/2011 of 10 January 2011 laying down implementing measures for the Rapid alert system for food and feed
Dir. 2000/13/EC	OJ L 109, 6.5.2000, p. 29-42	Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs