

**SUMMARY RECORD OF THE
STANDING COMMITTEE ON THE FOOD CHAIN AND ANIMAL HEALTH
HELD IN BRUSSELS ON 16 JANUARY 2007
(Section GM Food & Feed and Environmental Risk
and Toxicological Safety of the Food Chain)**

President: Michael Flueh (points 1 to 5), Patricia Brunko (points 6&7)

Approval of the Agenda

SECTION A – Information and discussion

1. LL RICE 601: Review of Commission Decision 2006/754/EC of 6 November 2006 on emergency measures regarding the non-authorised genetically modified organism LL RICE 601 in rice products

Since the announcement of the presence of non authorised LLRICE601 in US rice and the emergency measures, Member States have taken more than 1500 official samples upon import as well as on products that were already on the market. Initially, a significant number of positive lots was reported through the RASFF and withdrawn from the market.

Since 6 November 2006 and the entry into force of Decision 2006/754/EC imposing - in addition to the compulsory certification based on the tests carried out in the US - the systematic counter-testing of each lot of US long grain rice imported into the EU was virtually stopped. Since the end of November 2006, the number of positive results for LLRICE601 in food that were found and reported through the RASFF is limited. As a consequence of the present situation, the number of controls has decreased.

For the review of the current decision, the following elements were considered:

It is difficult to appreciate the efficiency of the measures provided for in the decision since import has virtually stopped. As a consequence, no official control could be made on rice consignments tested negative prior their export from the US.

Better information on the source of the contamination and its spreading in the US rice supply could contribute to assess the adequacy of the measures in place. In this respect, the committee is aware that official investigations by the US authorities are ongoing and the publication of the results of this investigation is expected.

A Commission representative also informed the Committee that the US rice industry was planning to meet Commission and Member States representatives to present them the different steps taken by the US Rice producers and in some US States to prevent the presence of LLRICE601 in the 2007 US harvest.

After having considered that all the information cited here above was needed before proceeding to a substantial review of the measures in place and the expected timeline to receive this information, the chairman concluded that the measure remained in place and that a new review of the Decision will only take place when new, relevant information will be available or, at the latest, within 6 months.

2. Food contaminated with Bt GM Rice originating from China: Update on the current situation, in particular of controls of Member States

The Committee was updated on the following points:

- Member States were reminded that they have been informed by the Commission end of October 2006 of the reply of Chinese authorities to Commissioner Kyprianou, on the different actions taken at national level to avoid exports to the EU of products contaminated with unauthorised GM rice, of the confirmation that the GMO concerned was Bt 63, that it was only authorised for experimental purposes in China and that the Chinese authorities were working on the validation of a detection method;
- that Commissioner Kyprianou has requested additional information from the Chinese authorities as regards the outcome of the investigations of the different exporters concerned, as regards the provinces where Bt 63 has been cultivated as well as on how the contamination had taken place;
- that the Commission has asked at several occasions Chinese authorities for making control samples available to the JRC so that it can validate the method, but that until now, unfortunately no such samples have been provided and that the Commission will thus insist further;
- that since 12 October 2006 no positive findings of products contaminated by Bt 63 have been reported in the Rapid Alert System for Food and Feed;

Member States have reported of their control activities. More than 100 samples have been tested and came out negative (some results are still expected). The cases of positive findings reported before 12 October 2006 in RASFF were discussed, with the accompanying measures of withdrawal. Some Member States informed that they have no direct imports of rice products originating from China. Member States insisted on the need to have a validated method available for control authorities.

The Commission concluded that the measures taken by the Chinese authorities seemed to be efficient and sufficient for the time being, in view of the negative results found by Member States but that the situation needed to be monitored further. The Commission will inform Member States of any new elements received from the Chinese authorities and also as regards the validation of the method by the JRC.

3. Follow-up of the Working Group Animal Nutrition of 22 September and of the Working Group GM food and feed of 15 December 2006: Consequences of the authorisation of DAS-59122 maize in the U.S.

A Commission representative reported about the two Working Group meetings, in which the difficulties were discussed that the European grain importers are currently facing with imports of corn gluten feed due to the possible presence of the non-authorised GM maize DAS 59122. The lack of standardised interpretation for the test results for the presence of this non-authorised GM maize has resulted in a legal uncertainty where operators are not always in a position to establish whether certain consignments are compliant with EU legislation or not. Operators are currently only shipping consignments to Europe where these doubts do not exist; this may however result in a shortage of corn gluten feed for European markets.

Several delegations took the floor, pointing out the necessity to preserve the integrity of the EC legislation on GMO whilst ensuring the supply with this commodity that is essential for the animal feeding industry in several Member States. Delegations agreed in requesting that a harmonised approach should be established regarding the performance of analytical results in order to give control authorities and operators legal certainty by ensuring the quality and comparability of analytical results.

The Commission representative outlined that the Commission was currently exploring the possibility to make use of Article 11 of Regulation (EC) N° 882/2004 on official controls performed to ensure the verification of compliance with food and feed law, animal health and animal welfare rules¹. According to this Article implementing measures may be adopted in Comitology in order to agree on the methods of sampling and analysis to be used in the event of a dispute, in order to lay down performance criteria for such methods and in order to determine common rules on the interpretation of their results. Discussions on this subject were to be continued.

4. Pending applications under Regulation 1829/2003: 1507xNK603 maize, MON863xMON810 maize, NK603xMON863 maize, NK603xMON810 maize, MON863xMON810xNK603 maize, Amylopectin Potato Event EH92-527-1: Discussion in view of the authorisation

A Commission representative explained that draft proposals were in consultation within the Commission services.

A Member State raised some concerns as regards some applications.

¹ OJ J 191, 28.5.2004, p. 1

SECTION B – Drafts presented for an opinion

5. Examination and possible opinion on a draft Commission Decision repealing Decision 200/317/EC on emergency measures regarding the non-authorized genetically modified organism Bt 10 in maize products

A Commission representative introduced the text of a draft Commission Decision repealing Decision 200/317/EC on emergency measures regarding the non-authorized genetically modified organism Bt 10 in maize products.

Decision 2005/317/EC had been adopted - on the basis of article 53 of Regulation (EC) No. 178/2002 - following the communication of the US authorities that maize products contaminated with the unauthorized genetically modified maize called Bt10 were likely to have been exported to the Community. Decision 2005/317/EC imposes that those consignments of maize products originating from the US and likely to be contaminated (corn gluten feed and brewers grains for feed use) can be placed on the EU market only if accompanied by a certificate based on an analytical report demonstrating that the products are not contaminated with Bt10. The emergency measures had been reviewed twice (in October 2005 and March 2006) confirming the maintenance of the requirement of compulsory certification requirement.

The Commission representative explained that on the basis of the new available information it is possible to conclude that it is no longer necessary to keep in place the compulsory certification requirement.

In particular no sample has tested positive for the presence of Bt10 since early November 2005 in the framework of the systematic tests requested by the Decision. This corresponds to 2500 tests indicating the absence of Bt10 completed in the United States. All these analytical tests were conducted in accordance with the test method validated by Joint Research Centre of the European Commission and further verified by the United States Department of Agriculture.

A recent letter of the US authorities to the Commission also describes a series of actions taken with the involvement of the United States Department of Agriculture to prevent any propagation of Bt10 and its further commercial distribution.

Furthermore since the entry into force of Decision 2005/317/EC only one case of Bt10 contamination has been registered in the EU territory in May 2005. In that specific case the contamination was notified by the importer prior to the arrival of the vessel to the EU thus preventing the placing on the EU market of the contaminated products. Apart from this specific case, no finding of Bt10 has been reported on the basis of the controls carried out by the national competent authorities.

A Commission representative underlined that the repealing provision contained in Article 1 of the draft Decision is completed by Article 2 which foresees that, for a further period of six months, Member States shall ensure an appropriate level of random testing to verify the absence of maize products contaminated by Bt 10 and should communicate any positive (unfavourable) result to the Rapid Alert System for Food and Feed.

The Standing Committee of the Food Chain and Animal Health provided a favourable opinion on the draft with a qualified majority.

The Committee agreed that an appropriate level of random testing should be maintained, concluding that the determination of the appropriate level belongs to the competence of Member States. The Chairman asked the Member States to keep at least the same level of controls as currently carried out.

6. Examination and possible opinion on a draft Commission amending Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with food and Directive 85/572/EEC laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs

The Standing Committee gave a favourable opinion with a qualified majority on the Draft Commission Directive amending for the fourth time Directive 2002/72/EC. By this amendment provisions for gaskets in lids, phthalates, a fat consumption reduction factor and the functional barrier concept are included. It also updates the list of authorised substances and confirms the prohibition to use azodicarbonamide in the manufacture of plastic materials and articles.

In relation to the limits set for phthalates in plastic food contact materials and rules for verification of these limits, Germany mentioned that for imports, only the packaged food can be controlled and that they will take measures when necessary.

7. Examination and possible opinion on a draft Commission Regulation (EC) laying down transitional migration limits for plasticizers in gaskets in lids intended to come into contact with foods

The Standing Committee voted unanimously in favour of the draft Regulation. This Regulation will set limits for plasticizers in gaskets in lids during the transitional period from the adoption of the fourth amendment to Directive 2002/72/EC until its transposition into national law.

Italy welcomed this draft Commission Regulation as it clarifies the provisions on the use of plasticizers in the gaskets in lids, thereby contributing to the effective functioning of the internal market. Italy confirmed that therefore the draft regulation responded to their concerns.