Contamination of milk by melamine in China

Chairman : Mr Eric Poudelet

All Member States were represented except Cyprus.

1. Introduction

Commission Decision 2008/757/EC imposing special conditions governing the import of products containing milk or milk products originating in or consigned from China was adopted on 26 September 2008\(^1\). It banned imports into the Community of Chinese composite milk products intended for the particular nutritional use of infants and young children and required Member States to ensure that all composite products (food and feed) containing at least 15% of milk product, originating from China, were systematically tested before import into the Community. All such products which are shown to contain melamine in excess of 2.5 mg/kg product are immediately destroyed. Member States shall also test, as a precaution, composite products whose milk product content cannot be established, but which can be reasonably assumed to contain milk products in significant amounts.

As the interim measures provided for by Decision 2008/757/EC were taken by the Commission without prior opinion of the Standing Committee, these measures had to be confirmed or adjusted within 10 working days after adoption by the Standing Committee of the Food Chain. Therefore this meeting of the Committee was convened.

The Chairman also indicated that the agenda for the meeting is not exhaustive and that all issues of relevance with the contamination incident can be discussed.

2. Reporting on the findings, methods of analysis, CN codes and action level

An overview of findings of non-compliances (level of melamine higher than 2.5 mg/kg) as notified through the Rapid Alert System for Feed and Food (RASFF) (situation 09/10/2008) was provided.

There have been in total 14 market notifications related to illegal import of milk products from China, high levels of melamine (up to 152 mg/kg) in creamy candies (White

\(^1\) OJ L259, 27.9.2008, p. 10
rabbit), melamine (up to 5 mg/kg) in biscuits (brand Koala), in peanut crackers (up to 20 mg/kg), lemon crackers (11 mg/kg) and chocolate pie (11 mg/kg).

It was confirmed that there are reliable sensitive analytical test methods available to detect melamine in milk powder at low levels. A detailed overview of the available methods, together with a description of the characteristics of the method, is provided on a website of the Joint Research Centre of the European Commission, Institute for Reference Materials and Measurements, specifically dedicated to the analysis of melamine and similar compounds in feed and food. (http://irmm.jrc.ec.europa.eu/html/activities/melamine/index.htm). This website is continuously updated with the most recent scientifically validated information on the analysis of melamine in feed and food.

It was specified that the action level applies only to melamine and not to the related compounds cyanuric acid, ammeline and ammelide. However for the laboratories which have the capacity to analyse also cyanuric acid, ammeline and ammelide, it was stressed that it is highly recommended to analyse also these substances as this information is of importance for the risk assessment and also for the determination of the treatment of the affected children in China.

The Commission presented a document containing the CN codes of products covered by Commission Decision 2008/757/EC of 26 September 2008. It was stressed that this list serves only as guidance and does not necessarily include all relevant CN codes or might contain CN codes of which the products traded under these codes are not within the scope of the Decision.

The Committee welcomed very much this document as it facilitates significantly the identification by the customs authorities of the products covered by the Decision.

The Commission representative confirmed furthermore that the level of 2.5 mg/kg melamine is the appropriate level to distinguish unavoidable background contamination (due to migration from food contact materials, pesticide use and other possible environmental sources) and unacceptable adulteration.

3. Discussion on the current and envisaged measures

The Chairman informed the Committee that in the period before the meeting of the Committee, the Commission has been in contact with the Chinese authorities. The Chinese authorities have ordered thorough checks on Chinese processors and markets. The Commission has asked China to agree on a standard attestation to be used by Chinese operators exporting to the Community. Such attestation would offer guarantees from the Chinese authorities that a pre-export check on the consignment has been carried out and that no melamine in excess of 2.5 mg/kg was found. However the Chinese authorities have not accepted such attestation.

Member States reported significant difficulties in establishing the exact milk or milk product content of composite products. As a consequence, the value of 15% above is largely devoid of relevance for deciding whether a consignment is subject to control requirements prior to import. Furthermore products containing milk and milk products less than 15% have been found to contain levels of melamine above 2.5 mg/kg. In order to streamline and simplify import controls procedures, it is therefore appropriate to establish the requirement of controls irrespective of the exact amount of milk or milk content in the composite products.
Given that melamine is fraudulently added to increase the apparent content of melamine and given the problems related to findings of high levels of melamine in 2007 in wheat gluten and rice protein used for the production of pet food, resulting in the death of many dogs in the US, several delegations insisted to include high protein containing feed and food in the scope of the Decision.

4. Measures proposed for opinion provided for in a draft Commission Decision imposing special conditions governing the import of products containing milk and milk products originating in or consigned from China, and repealing Commission Decision 2008/757/EC (Document SANCO/3321/2008)

Following the discussions, a draft Decision containing following measures was submitted to the Committee for vote:

Member States
- shall prohibit the import into the Community of composite products containing milk and milk products intended for infants and young children originating in or consigned from China. Also any such product found on the market shall be immediately withdrawn and destroyed;
- shall sample and analyse all consignments of composite products, including feed, containing milk products originating in or consigned from China;
- may carry out random checks prior to importing other feed and food products with a high protein content originating from China;
- shall carry out the checks at points of control specifically designated by the Member States for that purpose. Member States shall make the list of points of control available to the public and communicate it to the Commission;
- shall take the necessary measures to ensure that composite products containing milk and milk products and feed and food with a high protein content originating in or consigned from China which are already placed on the market are subject to an appropriate level of controls;
- shall report unfavourable analytical results through the Rapid Alert System for Feed and Food (RASFF) and report the favourable results on a two-weeks basis;
- shall ensure that any product found to contain melamine in excess of 2.5 mg/kg is destroyed without delay;
- shall ensure that the cost incurred for the control and the costs of official measures taken in case of non-compliance are to be borne feed and food business operator.

Furthermore, it is foreseen that feed and food business operators must give prior notification to the point of control of the estimated date and time of arrival of all consignments originating in or consigned from China of composite products, including feed, containing milk products.

It is foreseen that the measures will be regularly reviewed in the light of results of the controls carried out by the Member States.
5. Opinion of the Committee on a draft Commission Decision imposing special conditions governing the import of products containing milk and milk products originating in or consigned from China, and repealing Commission Decision 2008/757/EC (Document SANCO/3321/2008) - conclusion

The vote was taken. The Committee expressed a favourable opinion by qualified majority on the proposed draft Decision.

The Chairman thanked the delegations for their co-operative attitude and indicated that the Commission would ensure that the draft Decision is adopted within very short notice, i.e. within a few days.

The meeting was closed at 16.30.

Eric Poudelet,
Acting Director (signed)