

COMMISSION DECISION
of 9 December 2008
amending Decision 2008/798/EC
(notified under document number C(2008) 8197)
(Text with EEA relevance)
(2008/921/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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⁽¹⁾, and in particular Article 53(1), (b) thereof,

Whereas:

(1) Article 53 of Regulation (EC) No 178/2002 provides for the possibility to adopt appropriate Community emergency measures for food and feed imported from a third country in order to protect human health, animal health or the environment, where the risk cannot be contained satisfactorily by means of measures taken by the Member States individually.

(2) High levels of melamine were found in infant milk and other milk products in China. Melamine is a chemical intermediate used in the manufacture of amino resins and plastics and is used as a monomer and as an additive for plastics. High levels of melamine in food can result in very severe health effects.

(3) To counter the risk for health that may result from exposure to the melamine content of feed and food products, Commission Decision 2008/798/EC imposing special conditions governing the import of products containing milk or milk products originating in or consigned from China, and repealing Commission Decision 2008/757/EC, provides for a prohibition to import into the Community products containing milk or milk products, intended for the particular nutritional use of infants and young children, and requires Member States to perform systematic checks at import on other feed and food containing milk or milk products. That Decision also requires Member States to withdraw from the market any such product found to contain melamine in excess of 2,5 mg/kg product.

(4) According to information made available by the Member States through the Rapid Alert System for Feed and Food, high level of melamine have been found recently also in products containing soya or soya products imported from China. Melamine has also been found in ammonium bicarbonate, used in food industry as raising agent. It is therefore appropriate to extend the measures laid down in Commission Decision 2008/798/EC also to those products.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2008/798/EC is amended as follows:

1. In Article 2, paragraph 1 is replaced by the following:

‘Member States shall prohibit the import into the Community of products containing milk, milk products, soya or soya products intended for the particular nutritional use of infants and young children within the meaning of Council Directive 89/398/EEC on foods for particular nutritional uses, originating or consigned from China. Member States shall also ensure that any such product found after the entry into force of this Decision on the market shall be immediately withdrawn and destroyed.’

2. In Article 2, paragraph 2 is replaced by the following:

‘Member States shall carry out documentary, identity and physical checks, including laboratory analysis, on all consignments originating in or consigned from China of ammonium bicarbonate intended for food and feed and of feed and food containing milk, milk products, soya or soya products.’

Member States may carry out random checks prior to importing other feed and food products with a high protein content originating from China.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

Such checks shall in particular aim at ascertaining that the level of melamine, if any, does not exceed 2,5 mg/kg product. Consignments shall be detained pending the availability of the results of the laboratory analysis.'

Article 2

This Decision is addressed to the Member States.

3. Article 3 is replaced by the following:

Done at Brussels, 9 December 2008.

'Feed and food business operators or their representatives shall give prior notification to the point of control referred to in Article 2(3) of the estimated date and time of arrival of all consignments originating in or consigned from China of feed and food containing milk, milk products, soya or soya products.'

For the Commission
Androulla VASSILIOU
Member of the Commission