COMMISSION REGULATION (EC) No 2174/2003
of 12 December 2003
amending Regulation (EC) No 466/2001 as regards aflatoxins
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food [1], and in particular Article 2(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs [2], as last amended by Regulation (EC) No 1425/2003 [3], establishes maximum levels for aflatoxin B1 and aflatoxin total in certain foodstuffs.

(2) Regulation (EC) No 466/2001 provides that in so far as no specific level was fixed for maize to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs before 1 July 2003, the levels established for cereals intended for direct consumption would apply thereafter. The reason for this was that, in the case of maize, it cannot be excluded that sorting methods or other physical treatments reduce the level of contamination of aflatoxins but the real effectiveness of these methods remains to be demonstrated. It was also provided that, in the absence of data justifying the fixing of a specific maximum level for unprocessed cereals, the levels of 2 μg/kg aflatoxin B1 and 4 μg/kg aflatoxin total were to apply.

(3) In that connection, data with regard to maize have been submitted. On the basis of the submitted data, it is evident that through the various sorting and physical treatments the aflatoxin content of unprocessed maize can be significantly reduced after cleaning in the final consumer product (flaking grits, other grits). The aflatoxin contamination was mainly concentrated in the screenings (waste) and in maize germ, bran meal and broken maize (products for animal feed). While it is not possible to assess precisely quantitatively and with certainty to what extent this reduction can be achieved, it is evident from the data available that the different cleaning and processing steps are sufficiently effective in removing aflatoxins from maize products destined for human consumption whereby raw maize containing levels of aflatoxin B1 of 5 μg/kg and aflatoxin total of 10 μg/kg will result in maize products destined for human consumption complying with the maximum levels of aflatoxin B1 of 2 μg/kg and aflatoxin total of 4 μg/kg, providing a high level consumer protection.

(4) It appears that some food control enforcers and analysts, when reporting the analytical result, use the same number of significant figures in which the maximum level in legislation is expressed.

(5) Regulation (EC) No 466/2001 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 466/2001 is amended as follows:

1. In Article 4, paragraph 3 is replaced by the following:

'3. Groundnuts, nuts and dried fruit not complying with the maximum levels of aflatoxins laid down in point 2.1.1.1 of Annex I and maize not complying with the maximum levels laid down in point 2.1.2.1 of that Annex can be placed on the market provided that these products:

(a) are not intended for direct human consumption or used as an ingredient in foodstuffs;

(b) comply with the maximum levels laid down in point 2.1.1.2 of Annex I for groundnuts, in point 2.1.1.3 of Annex I for nuts and dried fruit and in point 2.1.2.3 of Annex I for maize;

(c) are subjected to a secondary treatment involving sorting or other physical treatment and that after this treatment the maximum limits laid down in points 2.1.1.1 and 2.1.2.1 of Annex I are not exceeded, and this treatment does not result in other harmful residues;

[1] OJ L 37, 13.2.1993, p. 1.
[2] OJ L 77, 16.3.2001, p. 1.
[3] OJ L 203, 12.8.2003, p. 1.

(d) are labelled clearly showing their destination, and bearing the indication "product must be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs".'

2. Annex I is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 December 2003.

For the Commission

David BYRNE

Member of the Commission