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FINAL REPORT OF A MISSION  
CARRIED OUT IN THE NETHERLANDS  
FROM 8 TO 12 MAY 2006  
IN ORDER TO EVALUATE IMPORT CONTROLS ON FOOD AND  
FEED OF NON-ANIMAL ORIGIN

*Please note that factual errors in the draft report have been corrected. Clarifications provided by The Netherlands Competent Authority are given as footnotes, in bold, italic, type, to the relevant part of the report.*



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## ABBREVIATIONS & SPECIAL TERMS USED IN THE REPORT

CA	Competent Authority
CCA	Central Competent Authority
CHEK	Chemical Quality Assurance working group of the Dutch Food and Consumer Product Safety Authority
CN	Combined Nomenclature
EU	European Union
FAPAS	Food Analysis Performance Assessment Scheme, UK
FVO	Food and Veterinary Office
GMO	Genetically modified organisms
HPLC	High Performance Liquid Chromatography
ISI	Informatie Systeem Inspectie Gezondheidsbescherming (Information System Inspectorate for Health Protection)
ISO	International Organisation for Standardisation
LNV	<i>Ministerie van Landbouw, Natuur en Voedselkwaliteit</i> - Ministry of Agriculture, Nature and Food Quality
MS	Member States
NCP	National Contact Point
OJ	Official Journal of the European Union
RASFF	Rapid Alert System for Food and Feed
OTA	Ochratoxin A
RvA	<i>Raad voor Accreditatie</i> - Dutch Accreditation Council
SAGITTA	Systeem voor de Automatische Gegevensverwerking van Invoeraangifte met Toepassing van Telematica bij het doen van Aangifte (Customs import declaration software)
SANCO	Health and Consumer Protection Directorate General
SOP	Standard Operating Procedure
VWA	<i>Voedsel en Waren Autoriteit</i> - Food and Consumer Product Safety Authority
VWS	<i>Ministerie van Volksgezondheid, Welzijn en Sport</i> - Ministry of Health, Welfare and Sports

## 1. EXECUTIVE SUMMARY

This report describes the outcome of a mission carried out by the Food and Veterinary Office (FVO) in The Netherlands, from 8 to 12 May 2006.

The objective of the mission was to evaluate, in the context of the import controls on food and feed of non-animal origin, the implementation of Regulations (EC) No 882/2004 and (EC) No 178/2002 of the European Parliament and of the Council, and the implementation of relevant Commission Decisions concerning mycotoxin contamination and Sudan dye adulteration. Additionally, the mission team followed up on action taken by the Competent Authorities (CAs) in response to the recommendations made by the FVO in report SANCO 9122/2003 with regard to animal nutrition.

The Food and Consumer Product Safety Authority (VWA) and Customs are the main CAs for import controls of feed and food of non-animal origin. Vertical and horizontal communication is satisfactory. There is a well-defined, risk-based procedure for the import controls of foodstuffs. Compliance with relevant EU legislation in respect of the frequency of controls and food sampling was demonstrated. Concerning the RASFF (Rapid Alert System for Food and Feed) system, some delays were noted in notifying rejected consignments to the Commission.

Most non-compliant lots of peanuts are subjected to further sorting to reduce aflatoxins to acceptable levels for human consumption. Some non-compliant lots can also be used for feed if they do not exceed the level of aflatoxin B1 allowed for feed materials. It was noted that in such cases controls are put in place to prevent diversion back into the food chain. However, the labelling of these feed materials was not fully satisfactory.

Shortcomings were noted in identifying all consignments intended to use as feed and subject to relevant import procedures. There is a monitoring programme for aflatoxins in feed but the feed sampling procedure is not fully in line with EU requirements. Furthermore, the official laboratory is allowed up to one month to deliver analytical results for contamination by aflatoxins.

The mission team visited one laboratory, which demonstrated good quality controls for aflatoxin analysis. However, a number of deficiencies were noted with regard to reporting of the recovery factor and measurement of uncertainty.

As regards follow-up, previous recommendations within the scope of the mission have been addressed.

Overall, there is a satisfactory system in place for import controls of both food and feed of non-animal origin. The Netherlands has a well defined structure of CAs responsible for import controls. In the area of food, import controls are flexible in response to risk and sampling frequencies are met. Nevertheless, minor deficiencies were found as regards RASFF notifications and the system for reporting laboratory results. Weaknesses were also found in determination of all consignments intended to use as feed, in feed sampling procedures and delays in receiving analytical results.

The report makes a number of recommendations to the competent authorities of The Netherlands to address the deficiencies noted.

## 2. INTRODUCTION

The mission took place in The Netherlands from 8 to 12 May 2006. The mission team comprised four inspectors from the FVO and one Member State expert.

The mission was undertaken as part of the FVO's planned mission programme.

The inspection team was accompanied during the whole mission by a representative from the central competent authority (CCA), the VWA.

An opening meeting was held on 8 May 2006 with the CCAs, the VWA and Customs. At this meeting the objectives of and itinerary for the mission were confirmed by the inspection team, and additional information required for the satisfactory completion of the mission requested.

## 3. OBJECTIVE OF THE MISSION

The objective of the mission was to evaluate, in the context of the import controls on food and feed of non-animal origin:

- the implementation of Regulation (EC) No 882/2004<sup>1</sup> of the European Parliament and of the Council,
- the implementation of Regulation (EC) No 178/2002 of the European Parliament and of the Council, and
- the implementation of Commission Decisions imposing special conditions on the import of certain products concerning mycotoxin contamination and Sudan dye adulteration in foodstuffs.

Additionally, the mission team followed up on action taken by the CAs in response to some recommendations made by the FVO in the previous report SANCO 9122/2003 regarding animal nutrition.

This was the second mission undertaken to The Netherlands for this purpose. It formed part of a wider series of missions to some Member States (MS) evaluating control systems and operational standards in this sector.

In pursuit of this objective, the following sites were visited:

Competent authority	Central	1	Food and Consumer Product Safety Authority (VWA)
	Regional	1	South West Region
	Local/Port	2	Port of Rotterdam, Customs office Schiphol airport, Customs office
<b>LABORATORY VISITS</b>			<b>Comments</b>
Official Control Laboratory		1	South West Region: Mycotoxin analysis
<b>VISITS TO PREMISES</b>			
Nut Storage Warehouse		1	Large warehouse, supervised sampling
Nut treatment company		1	Company sorting and blanching peanuts
Importer		1	Feed importer's office

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<sup>1</sup> Legal acts quoted refer, where applicable, to the last amended version. **Full references to the acts quoted in this report are given in Annex II.**

#### **4. LEGAL BASIS FOR THE MISSION**

The mission was carried out under the general provisions of Community legislation (the Treaty of the European Community, in particular Articles 10, 152, 153 and 211) and other general provisions of Community legislation, specifically:

- Regulation (EC) No 882/2004 of the European Parliament and of the Council, in particular Article 45.

#### **5. OTHER RELEVANT LEGISLATION**

Other relevant legislation is listed in Annex II.

#### **6. BACKGROUND**

##### **6.1. Summary of previous mission results**

A previous mission to The Netherlands with a similar objective was undertaken from 11 to 13 February 2002, the results of which are described in report DG (SANCO)/8515/2002 - MR Final (hereafter: report 8515/2002).

A previous mission concerning feed safety was carried out from 16 to 20 June 2003, the results of which are described in report DG (SANCO)/9122/2003 - MR Final (hereafter: report 9122/2003).

The reports of those missions are available at:

[http://ec.europa.eu/food/fvo/index\\_en.htm](http://ec.europa.eu/food/fvo/index_en.htm)

Report 9122/2003 made a number of recommendations for action to be taken by the CA in The Netherlands and some of these recommendations needed follow-up (see section 7.10).

##### **6.2. Background to present mission**

Information on foodstuffs and feedingstuffs found to have public health implications are disseminated as notifications through the RASFF to all MS and to the exporting country.

In recent years, there have been an increasing number of rapid alert messages within the European Union (EU) relating to food products containing mycotoxins above the maximum limits established in relevant EU legislation.

In fact, there were 992 RASFF messages for mycotoxins in 2005 and 290 from January to March 2006. Implicated products included peanut and peanut products, pistachios, hazelnuts, Brazil nuts, almonds, dried fruits, spices, coffee and cereals. For Sudan dyes, there were 183 RASFF notifications in 2005 and 28 from January to March 2006.

A series of missions was carried out by the FVO between 2002 and 2005 to major importing MS, to assess controls at import on food products of plant origin.

Seventeen MS were visited and three of these were the subject of additional follow-up inspections.

This series of missions identified weak controls at the import stage in some MS. In particular, the following major problems were identified:

- Deficiencies concerning the application of Commission Directive 98/53/EC regarding sampling and sample preparation.

- Non-compliant consignments are in general rejected and returned to the country of origin or a third country with little supervision by the CA.
- A significant volume of products of plant origin, such as peanuts and cereals, enter the community for use in either feed material for wild birds or in compound feedingstuffs. In many MS, the control of feedingstuffs is undertaken by a different CA or the responsibilities of the CA are not clear, making it possible for feed to enter the food chain.

### **6.3. Public health information**

#### **Mycotoxins**

Mycotoxins are naturally occurring metabolites produced by certain species of moulds (e.g. *Aspergillus spp*, *Fusarium spp*), which develop at high temperatures and humidity levels and may be present in a large number of foods.

This group of toxins includes a number of compounds of varying toxicity and frequency in food. Some mycotoxins are known to be carcinogenic: Aflatoxin B1 in particular is a potent genotoxic carcinogen and, even at extremely low levels, increases to the risk of liver cancer.

In order to protect public health, it is essential, to keep contaminants at toxicologically acceptable levels. The presence of contaminants must be reduced as far as possible by means of good manufacturing or agricultural practices.

In addition, sampling plays a crucial part in determine the precise levels of mycotoxins, which may be very heterogeneously distributed within a lot.

Therefore, EU legislation establishes:

- Maximum limits and sampling procedures for mycotoxins in foodstuffs and feedstuffs;
- General criteria to ensure that the laboratories in charge of analysis use methods of analysis with comparable levels of performance.

#### **Sudan dyes**

Sudan dyes have been classified as category 3 carcinogens by the International Agency for Research on Cancer and are not authorised for food use.

Under relevant EU legislation, imported consignments of chilli, chilli products, curcuma and palm oil have to be accompanied by an analytical report confirming the absence of Sudan dyes.

## **7. MAIN FINDINGS**

### **7.1. General information about the country**

All harbours, airports and border stations in the Netherlands are designated points of import for the food products coming under the relevant Commission Decisions. According to the VWA there are more than 100 points, Rotterdam being the main port of entry.

Three points of entry for feed imports have been designated: Rotterdam port, Amsterdam port, and Amsterdam airport.

## **7.2. Competent authorities**

The VWA and Customs are the main CAs responsible for import controls on food and feed of non-animal origin. There have been changes in the structure of both CAs since the last mission.

### The VWA

The VWA was set up in July 2002. It has full responsibility for supervision, risk assessment and risk communication.

The Authority is an independent agency under the administrative responsibility of the Ministry of Agriculture, Nature and Food quality (LNV) but also functions as an executive body for the Ministry of Health, Welfare and Sports (VWS). The VWA incorporates the former National Inspection Service for Commodities (KvW) and the National Inspection Service for Livestock and Meat (RVV).

There has been a new organisational structure since January 2006. The Directorate for Implementation, Enforcement and Surveillance carries out control activities and enforcement through its five regional offices. Each region has an allocated area of responsibility.

Controls and co-ordination on imports from third countries are handled by South West Region. North West Region has overall responsibility for official feed controls, including the annual control programme for feed and it co-operates with South West Region as regards import controls.

To ensure the coordination of activities, regular monthly meetings are held between central and regional VWA staff. In addition, SOPs and written guidelines are issued by the central authorities to the regional units. An IT system is in place to facilitate communication and the proper planning of activities.

Specific training has been provided for food inspectors on import controls.

Information on import controls is posted on the VWA' web-site for stakeholders and ad hoc meetings with associations of operators are organised.

### Customs

Customs are part of the Ministry of Finance. Since the last mission, the number of Customs districts has been reduced from 7 to 4.

The relationship between the VWA and Customs is set out in an agreement. With regard to food imports, the agreement is currently being updated and details the procedures to be followed and also the manner in which information is exchanged. Concerning responsibilities on import controls of feed, the agreement is at present being drafted.

Meetings between the VWA and Customs are held on a regular basis, to discuss the agreement, its implementation and the list of high-risk products (see section 7.5.1).

Customs are responsible for the transmission of the necessary documents to the Import Control Team for imported foods of Region South West. They in turn are responsible for carrying out documentary, identity and physical examinations. The mission team noted that routine information is exchanged by fax on a daily basis, (7

days a week and 24 hours a day) on each high-risk consignment declared at Customs.

With regard to feed, Customs are responsible for documentary checks and identity checks on behalf of the VWA.

Customs have access to the VWA's intranet. In-house training in import feed controls is provided for Customs officials in addition to that offered by the VWA.

The policy for the audits to be carried out is laid down in the VWA's annual plan.

In relation to food, an internal audit was carried out in 2003 concerning sampling for aflatoxins and no deficiencies were found. For 2006, a second audit to examine import controls is scheduled but its scope has not yet been decided.

No internal audits have been carried out for feed import controls. The VWA stated that external audits of Customs performance will be part of the forthcoming agreement between VWA and Customs.

### **7.3. Trade information**

#### *7.3.1. Food of non-animal origin*

The information provided indicated that, in 2005, the imports of concern for this mission into the Netherlands were mainly peanuts from Argentina, China, USA and Brazil. During the first few months of 2006, the volumes of peanuts imported from China decreased considerably in comparison with 2005.

Rotterdam is the main port of entry into the EU for peanuts, with large volumes entering from Argentina.

According to the VWA, in 2005, 58 consignments of peanuts were imported with the label "product must be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs".

Concerning imports of cereals, the VWA informed the mission team that the volumes were very low and mainly used for feed.

#### *7.3.2. Feed of non-animal origin*

The main products imported are soybean products and their by-products. The volume imported for feed materials at two ports represents around 17% of the total amount of feed imported into the EU. Consignments of feed materials of vegetable origin are usually in bulk, and are both imported and transhipped to other MS.

The mission team noted a huge discrepancy between the volumes of feed materials provided by the VWA. The VWA explained that owing to the lack of a standard method for compiling such data, the current system does not give a good overview of the number of consignments imported, their volume and related controls. In 2006, therefore, the VWA launched a project to develop such a system.

### **7.4. Legislation**

VWS is responsible for policy-making and legislation for food of non-animal origin and LNV is responsible for legislation in the field of the animal nutrition.

New EU Regulations and Decisions are sent to the relevant bodies and implemented immediately. They are all published in the Dutch Official Journal.

In October 2004, a new legislative act entered into force to consolidate national feed legislation in one 'Frame-work Law on Animal feed' and to transfer the power to implement and enforce animal feed legislation from a semi-public organisation back to the VWA.

Implementing national rules were also issued to take into account Regulation (EC) No 882/2004.

Guidance on documentary checks, identity checks and physical checks was issued.

The mission team noted that Directive 98/68/EC had been fully transposed into national law, as recommended in report 9122/2003.

## **7.5. Import controls**

### *7.5.1. Food of non-animal origin*

#### Import procedure

The import procedure for food of non-animal origin is the same for all imported food products regardless as to whether the products are subject to special conditions on import (Commission Decisions) or to an increased level of official controls. The VWA does not control any consignment under a T1 transfer to another MS.

The import procedure is as follows:

- Goods imported must be declared to Customs in the form of a general entry declaration.
- Customs are provided with a list of high-risk foodstuffs by VWA and criteria are entered in the Customs database (SAGITTA) using CN codes.
- When an entry declaration is lodged, these foods are automatically identified by the SAGITTA system. An alert indicates to Customs that all documents relating to the consignment must be sent to VWA and the consignment cannot be released until the VWA reports back. All food products included in the list are notified to the VWA. The mission team noted that documentation relating high-risk consignments was duly sent by Customs to the VWA.
- The VWA then carries out the required checks on the documents and selects those consignments that require physical examination. VWA decides if sampling will be carried out depending on the type of product and the human resources available at that time.
- The VWA reports back to Customs within three hours to confirm the consignments that require physical examination. Customs advises importers of the VWA's intention to carry out a physical examination or sampling.
- Customs seals all containers prior to removal to warehouses. A record is kept. The importer decides their destination, and in the majority of cases (99%) they are taken to an E category warehouse (warehouse under Customs administrative control).
- On the arrival of the consignment at the selected warehouse, the VWA inspector takes a sample and sends it to the VWA's laboratory for analysis. Details of the consignment together with the sample details are recorded in the VWA's computer database (ISI).
- The laboratory results are received within three working days and are communicated to Customs and the importer.

- Customs either releases the food consignment into free circulation after 3 days or, if the results reveal non-compliance, hands over responsibility for it to the VWA. The VWA informs the importer by letter that the consignment must not be moved until a decision on further action is made (see section 7.7).

The VWA stated at the closing meeting that the procedure for import controls would be maintained until the practical interpretation of Article 15(5) of Regulation (EC) No 882/2004 would be clarified by the Commission.

#### Frequency of controls

The Frequency of controls is established by the VWA. In the case of goods covered by Commission Decisions, the minimum frequency is laid down by the relevant Decision. In the case of other products, the CA carries out a risk analysis to determine the frequency per product and per country.

VWA produces a list of high-risk foodstuffs. The list includes food that needs to be controlled under Commission Decisions or following RASFF notifications, internal market analysis and previous monitoring. Seasonal factors are also taken into account. For each product and origin, a high frequency is applied at the start of every harvesting season in order to determine the quality of the new harvest. If the findings are favourable, the frequency decreases.

This list is regularly updated, for instance at the beginning of seasons, whenever a new or amended Commission Decision comes into force, and immediately when new food risks are identified.

According to VWA, as regards products coming under relevant Commission Decisions, peanuts from China are the most important. In 2005, 667 consignments of peanuts from China were imported, 148 analysed and 17 rejected. In 2006, 35 consignments were analysed out of 37, and 11 rejected (see Annex I, table1).

With regard to products not covered by relevant Commission Decisions (2005 and first quarter of 2006), peanuts from Argentina, USA, Brazil and South Africa were the main imports and they were sampled at a frequency of 12-51 % (see Annex I, table 2).

#### Groundnuts subject to a secondary treatment (Article 4(3) of Commission Regulation (EC) No 466/2001)

The procedure for the import control of these consignments is as described above. At declaration the importer already indicates that the consignment is subject to further processing. Customs send all related information to the VWA. The VWA needs this information to be able to supervise treatment.

The operator is obliged to inform VWA of the place and time of treatment.

After treatment, all consignments must be sampled and analysed either by the VWA or by private accredited laboratories. Results are notified to the VWA. If the results are non-compliant, the consignments can be re-treated (see also section 7.7).

The mission team noted that there were no written procedures available for the control of groundnuts subject to a secondary treatment.

The consignments examined by the mission team were adequately labelled and were supervised by the CA before and after treatment.

### 7.5.2. *Feed of non-animal origin*

#### Import procedure

- In order to import feed, the importer first has to present to Customs the relevant documentation, which includes the cargo manifest or the bill of lading and an Annex A document (as required by Directive 98/68/EC).
- Upon receiving these documents, Customs can carry out documentary and identity checks and the VWA physical checks, as appropriate, (see frequency of controls).
- Once the Annex A document has been signed by both CAs, the consignment can be offloaded. In order to obtain Customs clearance, the importer must submit the import declaration accompanied by the signed Annex A document.
- In order to ensure that feed entering via the SAGITTA system is subjected to the required checks (based on the CN codes) the system reminds Customs to ask the importer to present the Annex A document. However, the mission team noted that the most common feed material imported (e.g. soya pellets) was not flagged in the SAGITTA system. Customs explained that the warning system applies mainly to feed of animal origin and the extension of the warning system to all feed products will be part of the forthcoming agreement between Customs and the VWA.

The import procedure relies mainly on the experience of the importer. If the importer does not declare the product as feed and it is not accompanied by the Annex A, the correct procedure will not take place. In these cases, the SAGITTA will select randomly 1% of the total number of import declarations for checks.

VWA is planning to verify at the point of destination (e.g. feed establishments) whether feed materials are imported following the correct import procedure.

When a consignment is split and is going to be customs-cleared in another MS, a daughter document of the Annex A document accompanies each part.

#### Frequency of controls

Animal Feed Supervision Arrangement 2006 requires that all consignments be subject to documentary checks, 5% to random identity checks and 1% to random physical checks.

Additional physical checks are carried out for the presence of GMOs in feed materials of vegetable origin.

Physical checks at the point of entry are provided for in the annual control programme for feed, which incorporates the criteria set out in the Commission Recommendation concerning a coordinated control programme in the field of animal nutrition (including mycotoxins). Other criteria also take into account are RASFF notifications and previous monitoring.

The mission team noted that at one of the entry points visited, Customs carried out documentary and identity checks on imported feed. At the other entry point visited, Customs carried out documentary checks but the identity checks were carried out by VWA. Customs explained that the absence of identity checks was mainly due to the reorganisation of Customs offices. The responsibilities for identity checks would also be clarified in the forthcoming agreement with VWA.

At one of the entry points visited, more physical checks were carried out than required by national rules. However, at the other entry point visited the numbers of physical checks were not available, only the figures for laboratory analyses. This was due to difficulties in compiling the data (see section 7.3.2).

## **7.6. Rapid Alert System for Food and Feed**

The Rapid Alert System for Feed is described in report 9122/2003.

### National contact point (NCP)

The NCP for food and feed for the Commission RASFF system is the incident and crisis centre of the Directorate for Implementation, Enforcement and Surveillance within the VWA.

A team is responsible for receiving incoming notifications from the Community RASFF system and sending outgoing notifications to the Commission services.

There is a manual of procedures on how to deal with food alerts.

Incoming notifications are checked by the NCP team. These notifications are then submitted to another team with specific expertise on import controls, which makes an initial assessment. Once assessed, they are circulated by email to the relevant regional offices. There is one person responsible in each region for circulating the notifications to the relevant people. In addition, all regional offices receive the weekly overview of RASFF notifications.

### Procedure for the notification of a rejected consignment from the regional offices to NCP:

Rejections of imported products found to be non-compliant are notified to the NCP. The NCP in turn sends the notifications to the assessment team. Once assessed, they are subsequently submitted to the Commission services.

The mission team examined several RASFF notifications and detected delays up to 2 months (information notifications 2006 BAK, 2006 AZL, 2006 AZS) in notifying some rejected consignments to the Commission.

The mission team noted that the VWA had not made any notifications for feed of non-animal origin in 2005, and the last such notification had been made in January 2004, concerning linseed pellets imported from the USA.

## **7.7. Procedures for non-compliant lots**

### *7.7.1. Food of non-animal origin*

When a food consignment is non-compliant, VWA offers the importer several options: special treatment to render the consignment fit for food consumption, use as feed, re-dispatch or destruction of the consignment. Any decision must be agreed with VWA in advance.

### Special treatment:

Most products found to be non-compliant due to aflatoxin contamination are sent for physical treatment. This treatment consists of sorting and blanching. Any consignment can be subjected to this treatment regardless of the aflatoxin levels found.

The operator is obliged to ask the VWA's permission to process the batch at a certain place and time. The mission team noted evidences of requests by importers to the VWA for treatment and the VWA's treatment authorisations.

After treatment, all consignments must be sampled and analysed either by the VWA or by private accredited laboratories. The results are notified to the VWA. Compliant consignments are released by the VWA on the basis of the analytical results and if the results are non-compliant, the consignments can be re-treated.

The VWA has a list of private accredited laboratories that can perform mycotoxin analysis.

The mission team examined a number of analytical reports issued by these private laboratories in South West region. The sampling method was described in the reports according to Directive 98/53/EC and the recovery factor was reported corrected for recovery. However, the measurement uncertainty was not reported.

The mission team visited the premises of a company applying a physical treatment (blanching and sorting of peanut consignments). The company treats imported consignments mainly from the USA (50%), Argentina (35%) and China.

The mission team noted that all consignments were identified by a specific code and with this code was possible to identify the supplier.

After treatment and analysis, compliant consignments are delivered to the importer who in turn is responsible for appropriate labelling before release onto the market.

#### Use as feed:

When a food consignment is found to exceed the limit for mycotoxin contamination in food, a possible measure is to use it as feed if it does not exceed the level set in Directive 2002/32/EC for aflatoxin B1 in feed materials.

On average, 400 tonnes of groundnuts exceeding the limit for mycotoxin contamination in food are designated for use as feed every month.

The mission team noted that when a decision to use a food consignment as feed is taken by the VWA, the officials responsible for feed controls are informed. In addition, controls are put in place to prevent diversion back into the food chain.

The CA stated that the original labels on the bags of groundnuts were retained but the final use was indicated on the accompanying documents.

Article 5 of Directive 96/25/EC requires that the nature of the product "feed material" and its specific name have to be shown in an accompanying document or, where appropriate, on the packaging, the container or the label attached thereto. The mission team found that final use was indicated in the accompanying document and the requirements of the above Directive have thus been met.

Where such consignments were dispatched to other MS to be used as feed, the CA stated that a letter was issued informing the relevant CA of the other MS. However, evidence of such letters could not be provided. Moreover, according to the VWA, there were difficulties identifying the responsible CA in another MS to whom to send such information.

#### Re-dispatched:

The importer has the possibility of re-dispatching the consignment.

The VWA gives permission if the importer presents, no later than one month after re-dispatching, copies of the export declaration verified by Customs, transport documents, and an outgoing manifest.

When the consignment is re-dispatched to a third country, confirmation is also required from the CA of the destination country as to its preparedness to accept the consignment.

The mission team noted evidences of such letters in the region visited.

#### *7.7.2. Feed of non-animal origin*

The mission team was informed that when feed consignments are sampled and analysed, they can be released before the analytical results are available. Results for aflatoxin tests in feedingstuffs can be delivered up to one month after the consignment has been released. This is due to an agreement between VWA and the laboratory establishing the time frame for the delivery of analytical results<sup>2</sup>.

National rules require the importer (as a feed operator) to provide information on the suppliers and customers of unsafe feed within 4 hours. The VWA in turn has to trace and seize the unsafe feed within 24 hours and notify the fact to the RASFF system.

According to the VWA, such measures had not yet been applied in practice for feed, as all consignments had so far been found to be in compliance with the rules at the point of entry.

### **7.8. Sampling procedures**

#### Food of non-animal origin

The mission team observed the sampling of a consignment of Argentinean peanuts for analysis for aflatoxins. The sampling was carried out directly by two staff of the VWA import control team in a storage warehouse.

The mission team noted that the sampling procedure followed was in accordance with Directive 98/53/EC and resulted in three homogenous 10 Kg samples for analysis. Adequate sampling equipment is available for the staff performing the sampling.

#### Feed of non-animal origin

The sampling procedure for feed in bulk was described by the officials met and the mission team noted that:

- The sampling portion was not representative of the whole bulk consignment. The VWA stated that the main reason for not sampling the whole bulk consignment stored in the tanker were the high labour costs involved in sampling and the time needed (up to several days round-the-clock)<sup>3</sup>.

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<sup>2</sup> *In their response to the draft report The Netherlands Authorities noted that the VWA has a contract with the laboratory which carries out the feed analyses, the Rikilt, which stipulates that for certain analyses the reporting time may be up to 30 working days.*

<sup>3</sup> *In their response to the draft report The Netherlands Authorities noted that with regard to the sampling of seagoing vessels (tankers), the competent authority will limit itself to the sampling of partial cargoes as loaded in smaller ships (lighters). Sampling of seagoing vessels with cargoes of up to 25000 tons is not practically or financially feasible.*

- On one occasion, the chosen procedure was not adequate and as a result, the wrong number of aggregate samples was taken for aflatoxin analysis, (the procedure chosen was the one for detection of evenly distributed undesirable substances instead of that for unevenly distributed undesirable substances). In another occasion the sampling procedure chosen was adequate but not fully followed<sup>4</sup>.

## **7.9. Laboratory services**

### General organisation

In the Netherlands, there are three designated laboratories (VWA laboratories of regions South-West, South and North-West) for performing official food controls and one laboratory for feed coming under the scope of this mission.

As regards food, 2 of the 3 are responsible for mycotoxin analysis whereas the other is responsible for Sudan dyes analysis.

The feed laboratory performs a wide range of analyses for e.g. mycotoxin, heavy metals, dioxins and veterinary antibiotics. An agreement between the feed laboratory and the VWA has been drafted in order to increase the capacity of the laboratory in the event of emergencies.

All the laboratories involved in official import controls are accredited according to ISO 17025 by the national accreditation body (RvA).

### Laboratory visited

The mission team visited the enforcement laboratory of South West Region in Zwijndrecht. The laboratory visited is responsible for all the analysis of aflatoxins and ochratoxin A (OTA) with regard to imported consignments.

The laboratory was re-accredited in November 2005 to ISO 17025. Aflatoxin analysis in some matrices, such as nut and nut products, paprika and spices, and OTA analysis in raisins were included within the accreditation.

Samples are brought in by official inspectors and results are delivered within 3 working days. The mission team examined the organisation chart, the list of staff, training of staff, the RvA and internal audit reports, some relevant SOPs, calibration records and data from the validation study.

All laboratory samples arrive in opaque bags and are then ground using a slurry method. The three laboratory samples are all ground at the same time, as the laboratory has 3 “Silverson” grinding machines. Homogeneous samples are produced in 20 minutes and four sub-samples are then prepared from each of these, one is kept as a reference sample (for one year), one for trade (defence) upon request, and two for analysis. The second is used for repeat confirmatory analysis using the same method.

The analytical method used is a national procedure developed in the laboratory in Amsterdam. The method observed by the mission team used the ‘aflatest’ Immuno

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<sup>4</sup> *In their response to the draft report The Netherlands Authorities noted that with regard to sampling for checks for non-homogeneously distributed contaminants, such as aflatoxins, the competent authority will bring the sampling instructions into line with Directive 76/371/EEC. In practice, this means that for only a quarter of the planned checks for aflatoxins for 2006 will the batches be checked for mycotoxins.*

Affinity Column method (sample preparation). Analysis used HPLC with post-column derivatisation (cobra cell).

The laboratory participates in international proficiency tests for aflatoxins (FAPAS and CHEK) with very good results.

The mission team noted that the laboratory produces an electronic analytical result but this result is not reported corrected or uncorrected for recovery. The laboratory has a standard measurement uncertainty of 44%. The VWA issues warning letters to the companies concerned when the level found is higher than 2.9 µg/kg for aflatoxin B1 and 5.8 µg/kg for total aflatoxins, but the standard measurement applied is not reported.

#### **7.10. Follow-up of previous recommendations**

The two recommendations made by the FVO in report SANCO 9122/2003 concerning the transposition of Directive 98/68/EC and the co-operation and co-ordination between the VWA (formerly the RVV) and Customs have been satisfactory addressed.

### **8. CONCLUSIONS**

#### **8.1. Competent authority performance**

- (1) The CAs responsible for import control are clearly defined: they are the VWA and Customs. The number of CAs involved in the feed control has been reduced, thus simplifying the organisation and the co-ordination between different services.
- (2) Communication pathways are established and operate well. Efficient and effective coordination is ensured between all CAs involved.
- (3) There is an agreement between Customs and VWA as regards food import controls. In relation to feed controls, steps have yet been taken to formalise the agreement between Customs and the VWA.
- (4) Staff are well qualified to carry out their responsibilities and, during the mission, demonstrated their knowledge of legislation requirements. The VWA ensures that all staff receive appropriate training.

#### **8.2. Legislation**

- (5) VWS and LNV are responsible for drafting legislation in the field of food and feed respectively.
- (6) Relevant Commission Decisions and EU Regulations are implemented as soon as they are published by the Commission.
- (7) The national implementing rules governing import controls, including the transposition of Directive 98/68/EC, are largely in line with EU requirements.

#### **8.3. Import controls**

- (8) A well defined import procedure for foodstuffs is in place. The VWA has a structured and flexible risk-based approach to import controls and works in close

co-operation with Customs. A list of goods subject to controls is produced by the VWA.

- (9) With the application of this list, the VWA complies with the frequency of controls laid down in pertinent Commission Decisions. With regard to other high-risk food products, the sampling frequency applied fluctuates between 12-50 % of the imported consignments.
- (10) Consignments designated to a secondary treatment are supervised by the VWA, although no written procedures are available, which is not in line with Article 8(1) of Regulation (EC) No 882/2004.
- (11) The import procedures for feed are comprehensive. Shortcomings were noted in identifying consignments intended for use as feed and thus subject to the relevant feed import controls.

#### **8.4. Rapid Alert System for Food and Feed**

- (12) There is an adequate communication network established for the transfer of information to and from the RASFF contact point in the VWA.
- (13) Rejected consignments are notified to the Commission services although in some cases the time taken for notifications to be sent is excessive.

#### **8.5. Procedures for non-compliant lots**

- (14) Most of the non-compliant lots are subjected to physical treatment to reduce the aflatoxin levels to those acceptable for human consumption. Supervision of non-compliant lots is the responsibility of the VWA.
- (15) Procedures are in place for non-compliant food products designated for use as feed to ensure they go to the appropriate destinations. However, according to the VWA, the original labelling of these products was kept whereas the label should have been amended to include the details given in Article 5 of Directive 96/25/EC to reflect the change of intended use in order to ensure that it was not liable to mislead as required by Article 3 of Directive 96/25.
- (16) The importer has also the possibility to decide the re-dispatch of the consignment. The observed procedure in the region visited was in compliance with Article 21 of Regulation (EC) No 882/2004.

#### **8.6. Sampling procedures**

- (17) The sampling observed was carried out directly by official control staff and was in accordance with Directive 98/53/EC.

#### **8.7. Laboratory services**

- (18) There are 4 designated laboratories, all accredited to ISO 17025, for performing official controls coming under the scope of this mission.
- (19) The laboratory visited is well structured, performs well and participates in proficiency testing schemes with very good results.

- (20) A number of deficiencies were noted with regard to reporting of the recovery factor and measurement uncertainty, which are not in line with Annex II to Directive 98/53/EC.

### **8.8. Follow-up of previous recommendations**

- (21) The CA has satisfactorily addressed the recommendations made in report 9122/2003 regarding the issuing of a document in accordance with Directive 98/68/EEC and the co-operation and co-ordination between Customs and the VWA.

### **8.9. Overall conclusion**

The Netherlands has a well-defined structure of CAs responsible for import controls, with good communication pathways in place. Food import procedures are clear, controls are flexible in response to risks and established EU frequencies in relevant Commission Decisions are met. Nevertheless, weaknesses were found in identifying all the consignments intended for use as feed, sampling procedure and delays in obtaining analytical results. With regard to food minor shortcomings were identified concerning SOPs, delays in RASFF notifications and reporting of laboratory results.

## **9. CLOSING MEETING**

A closing meeting was held on 12 May 2006 with the CCA, the VWA. At this meeting, the main findings and conclusions of the mission were presented by the inspection team.

The representatives of the VWA accepted these findings and conclusions.

## **10. RECOMMENDATIONS**

### **To the competent authorities of The Netherlands**

An action plan in response to the recommendations should be forwarded to the Commission within 25 days of receipt of the report. This action plan should clearly set out the manner and deadline by which the competent authorities will address each of the following recommendations:

- (1) To ensure that the CAs carries out official controls in accordance with documented procedures as required by Article 8(1) of Regulation (EC) No 882/2004, in particular procedures for the official control of physical treatments.
- (2) To timely notify rejected consignments to the Commission RASFF as required by Article 50(3) of Regulation (EC) No 178/2002.
- (3) To ensure that non-compliant lots intended for use as feed are identified in accordance with Article 5 of Directive 96/25/EC.
- (4) To ensure that the laboratory produces analytical results that are reported as corrected or uncorrected for recovery and for uncertainty measurements in accordance with Annex II to Directive 98/53/EC.

## **11. COMPETENT AUTHORITY RESPONSE TO RECOMMENDATIONS**

In their response to the recommendations The Netherlands Competent Authority have addressed all the recommendations and have proposed relevant action to take place within a specified time frame. As soon as this report is published, the competent authority's response to the recommendations can be found at the following link:

[http://ec.europa.eu/food/fvo/ap/ap\\_the\\_netherlands\\_8111\\_2006.pdf](http://ec.europa.eu/food/fvo/ap/ap_the_netherlands_8111_2006.pdf)

## **ANNEX I: Trade information and levels of analysis**

***Table 1: Import and sampling data for 2005 and 2006 (January-March) – Food products coming under relevant Commission Decisions***

Product	CN - code	Country of origin	Number of consignments imported		Official analysed aflatoxins		Cases of non-compliance (percentage)	
			2005	2006	2005	2006	2005	2006
Peanuts and peanut products	1202 10 90, 1202 20 00, 2008 11 92, 2008 11 96	EGYPT	12	1	10	1	0	0
Peanuts and peanut products	1202 10 90, 1202 20 00, 2008 11 92, 2008 11 96, 2008 11 94, 2008 11 98	CHINA	667	37	148	33	17 (11.5)	11 (33)
Pistachios	0802 50 00, 2008 19 13, 2008 19 93	IRAN	2	-	2	-	2 (100)	-
Dried figs	0804 20 90	TURKEY	38	3	21	3	2 (9.5)	0
Hazelnuts	0802 21 00, 0802 22 00	TURKEY	47	8	35	7	1 (2.9)	2 (28)
Pistachios	0802 50 00	TURKEY	2	1	2	1	0	0
Figs, hazelnuts, and pistachios and derived products	0813 50, 2007 99 98, 2008 19, 1106 30 90	TURKEY	7	-	5	-	0	-
Brazil nuts	0801 21 00	BRAZIL	-	-	-	-	-	-

### **Sudan Dyes:**

Chilli and chilli products, curcuma	0904 20 90, 0910 50, 0910 30		398	51	110	6	0	0
Palm oil	1511 10 90	-	-	-	-	-	-	-

(Source: VWA)

**Table 2: Import and sampling data for 2005 and 2006 (January-March) – Other food products**

Product	CN – code	Country of origin/ contaminant	Number of consignments imported		Official Samples analysed		Cases of non-compliance (percentage)	
			2005	2006	2005	2006	2005	2006
Peanuts	1202 10 90, 1202 20 00	ARGENTINA/ aflatoxins	2089	620	430	77	37 (8,6)	17 (22)
Peanuts		USA/ aflatoxins	386	44	48	8	4 (8.3)	2 (25)
Peanuts		BRAZIL/ aflatoxins	299	68	152	35	41 (27)	7 (20)
Peanuts		SOUTH AFRICA /aflatoxins	256	22	80	8	11 (13.7)	4 (50)
Peanuts		SUDAN/ aflatoxins	65	-	50	-	6 (12)	-
Peanuts		AUSTRALIA/ aflatoxins	65	-	9	-	0	-
Peanuts		PARAGUAY/ aflatoxins	44	-	14	-	4 (28.6)	-
Peanuts		NICARAGUA/aflatoxins	33	-	11	-	2 (18.2)	-
Peanuts		INDONESIA/ aflatoxins	7	-	3	-	1 (33.3)	-
Peanuts		INDIA/ aflatoxins	5	-	3	-	2 (66.7)	-
Peanuts		Other countries	21	-	11	-	0	-
Pistachios		USA/ aflatoxins	269	-	136	-	5 (3.7)	-
Brazil nuts in kernels		BOLIVIA/ aflatoxins	79	-	17	-	1 (5.9)	-
Brazil nuts in Kernels		BRAZIL /aflatoxins	12	-	7	-	1 (14.3)	-
Almonds		USA/ aflatoxins	2	3	1	1	0	0
Sunflower kernels		INDIA/ aflatoxins	27	-	16	-	7 (43.7)	-
Sunflower kernels		EGYPT/ aflatoxins	4	-	2	-	2 (50)	-
Melon seeds		INDIA/ aflatoxins	1	-	1	-	1 (100)	-

Product	CN – code	Country of origin/ contaminant	Number of consignments imported		Official Samples analysed		Cases of non-compliance (percentage)	
			2005	2006	2005	2006	2005	2006
Coffee beans		Several Countries /ochratoxin A	530	-	23	-	0	-
Raisins			-	-	-	-	-	-
Apple prod.		patulin	0	0	0	0	0	0
Cereals		Fusarium	0	0	0	0	0	0

(Source: VWA)

## **ANNEX II: References to community acts cited in the report**

<b>European Legislation</b>	<b>Official Journal</b>	<b>Title</b>
Regulation (EC) No 882/2004.	OJ L 165, 30.04.2004. Corrected and re-published in OJ L 191, 28.05.2004 p. 01.	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.
Commission Regulation (EC) No 2076/2005.	OJ L 338, 22.12.2005 p. 83.	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 the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004.
Regulation (EC) No 852/2004.	OJ L 139, 30.04.2004. Corrected and re-published in OJ L 226, 25.06.2004 p. 03.	Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs.
Regulation (EC) No 178/2002.	OJ L 31, 1.02.2002, p. 01.	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.
Council Regulation (EEC) No 315/93.	OJ L 37, 13.02.1993, p. 01.	Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food.
Commission Regulation (EC) No 466/2001.	OJ L 77, 16.03.2001, p. 01.	Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs.
Commission Directive 98/53/EC.	OJ L 201, 17.07.1998, p. 93.	Commission Directive 98/53/EC of 16 July 1998 laying down sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs.
Commission Directive 2002/26/EC.	OJ L 75, 16.03.2002, p. 38.	Commission Directive 2002/26/EC of 13 March 2002 laying down the sampling methods and the methods of analysis for the official control of the levels of ochratoxin A in foodstuffs.

<b>European Legislation</b>	<b>Official Journal</b>	<b>Title</b>
Commission Directive 2003/78/EC.	OJ L 203, 12.08.2003, p. 40.	Commission Directive 2003/78/EC of 11 August 2003 laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs.
Commission Directive 2005/38/EC.	OJ L 143, 7.06.2005, p. 18.	Commission Directive 2005/38/EC of 6 June 2005 laying down the sampling methods and the methods of analysis for the official control of the levels of Fusarium toxins in foodstuffs.
Commission Regulation (EC) No 401/2006 <sup>5</sup> .	OJ L 70, 9.03.2006, p.12.	Commission Regulation (EC) No 401/2006 of 23 February 2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs.
Commission Decision 2002/79/EC.	OJ L 34, 5.02.2002, p. 21.	Commission Decision 2002/79/EC of 4 February 2002 imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from China.
Commission Decision 2002/80/EC.	OJ L 34, 5.02.2002, p. 26.	Commission Decision 2002/80/EC of 4 February 2002 imposing special conditions on the import of figs, hazelnuts and pistachios and certain products derived thereof originating in or consigned from Turkey.
Commission Decision 2005/85/EC.	OJ L 30, 3.02.2005, p. 12.	Commission Decision 2005/85/EC of 26 January 2005 imposing special conditions on the import of pistachios and certain products derived from pistachios originating in or consigned from Iran.
Commission Decision 2000/49/EC.	OJ L 19, 25.01.2000, p. 46.	Commission Decision 2000/49/EC of 6 December 2000 repealing Decision 1999/356/EC and imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from Egypt.
Commission Decision 2003/493/EC	OJ L 168, 5.07.2003, p. 33.	Commission Decision 2003/493/EC of 4 July 2003 imposing special conditions on the import of Brazil nuts in shell originating in or consigned from Brazil.

<sup>5</sup> This Regulation is to apply from 1 July 2006. It will repeal Directives 98/53/EC, 2002/26/EC, 2003/78/EC and 2005/38/EC.

European Legislation	Official Journal	Title
Commission Decision 2005/402/EC.	OJ L 135, 28.05.2005, p. 34.	Commission Decision 2005/402/EC of 23 May 2005 on emergency measures regarding chilli, chilli products, curcuma and palm oil.
Directive 2002/32/EC	OJ L 140, 30.05.2002, p. 10	Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed
First Commission Directive 76/371/EEC	OJ L 102, 15.04.1976, p. 01	First Commission Directive 76/371/EEC of 1 March 1976 establishing Community methods of sampling for the official control of feedingstuffs
Commission Directive 98/68 (EC).	OJ L 261, 24. 09.1998, p. 32	Commission Directive 98/68 (EC) of 10 September 1998 laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feedingstuffs from third countries.
Commission Decision 2005/317/EC	OJ L 101, 21.04.2005, p. 14	Commission Decision 2005/317/EC of 18 April 2005 on emergency measures regarding the non-authorized genetically modified organism Bt10 in maize products.
Council Directive 96/25/EC	OJ L 125, 23.05.1996, p. 35	Council Directive 96/25/EC of 29 April 1996 on the circulation and use of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC.