

February 15th 2021

Joint letter from Belgium, the Netherlands and Luxembourg on the use of bamboo or other unauthorized additives in plastic food contact materials placed in the EU market

The use of bamboo (or other natural constituents) in combination with polymers, such as melamine (so called "bamboo-melamine") for the manufacture of plastic Food Contact Materials ("FCMs") does not have an explicit authorization under article 5 of Regulation (EU) No 10/2011 of 14 January 2011 on plastic materials and articles intended to come into contact with food ("Regulation (EU) No 10/2011").

This was confirmed in a note by the European Commission and Member States on 23rd June 2020 which reminded business operators not to put on the EU market products that do not fulfill European Union legal requirements.¹

Controls done by Member States have shown that a wide range of non compliant "bamboo-melamine" composite food contact materials are currently on the EU market. The vast majority of these products present on the EU market are kitchenware and tableware such as reusable plates, bowls and the so called "to go cups".

In addition, migration of melamine and formaldehyde have been found on a large number of occasions to be considerably above the Specific Migration Limits (SMLs) laid down in Regulation (EU) No 10/2011 leading to the recall of these products from the market.

According to Regulation (EC) No 1935/2004 of 27 October 2004 on materials and articles intended to come into contact with food ("Regulation (EC) No 1935/2004") business operators are responsible to ensure that plastic materials and articles comply with the requirements set in article 4 of Regulation (EU) No 10/2011. Accordingly, only the substances included in the Union list of authorised substances set out in Annex I of Regulation (EU) No 10/2011 may be intentionally used in the manufacture of plastic food contact materials and articles, in accordance with article 5 of Regulation (EU) No 10/2011.

The undersigned authorities would like to emphasize the importance of assuring the prohibition on the use of these unauthorized additives. Therefore, business operators will have to withdraw "bamboo-melamine" materials and articles from the EU Market immediately.

¹ https://ec.europa.eu/food/sites/food/files/safety/docs/cs_fcm_meeting-ind_20200623.pdf

Similarly, importers wishing to bring such products to the EU market will have to submit an authorisation dossier according to Regulation (EC) No 1935/2004.

The undersigned authorities will do reinforced market controls as from the second quarter of 2021. In case of non-compliance, the undersigned authorities will pursue infringements procedures for reasons of breach of EU legislation.

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