

United States Senate

WASHINGTON, DC 20510-4904

September 24, 2008

The Honorable Andrew C. von Eschenbach, M.D.
Commissioner
U. S. Food and Drug Administration
5600 Fishers Lane
Rockville MD 20857-0001

Dear Commissioner von Eschenbach:

As more details are revealed about the extent of the melamine contamination in Chinese produced dairy products, I wanted to contact you to make sure that the FDA is doing everything in its power to prevent adulterated goods from reaching American shores.

As you know, it recently became public that Chinese dairy products and especially infant formula have been adulterated with melamine in order to make them appear to have higher protein content. This adulteration has gone on for some months and has impacted at least 22 Chinese manufacturers. The adulteration of infant formula has been especially harmful, with four deaths and 53,000 cases of illness linked to the melamine already.

This is not an isolated case. Just last year, there was a similar case of melamine adulteration in another high protein Chinese product, wheat gluten. While the adulterated wheat gluten was limited to animal feed in the United States, it is clear that the measures put in place in China after that case were inadequate. In addition, the fact that two major international infant formula producers with plants in China import every drop of milk used in their plants suggests that problems with dilution and adulteration were not a secret.

A particularly worrisome aspect of the latest incident was the apparent effort to cover up the unsafe contamination in the infant formula by the Chinese manufacturer, local government and even Fonterra, the sixth largest dairy company in the world. According to press accounts, on August 2nd, the board of the infant formula manufacturer, including Fonterra representatives, was informed of the melamine contamination. No public announcement or recall was begun until over a month later.

While China is not the leading exporter of dairy products to the United States, over 900,000 kilograms of dairy proteins and derivatives such as casein and caseinates worth \$5.8 million have been exported to the US from China during the first seven months of this year. And while export of Chinese wheat gluten for animal feed to the US has essentially ceased, 4,509,100 kilograms worth \$4.2 million for other uses has continued during the first seven months of 2008.

While particular emphasis needs to be paid to products from China and I am encouraged by the recent announcement of stepped-up FDA inspections of Chinese dairy products, it seems prudent to also examine high protein imports in general. Since just a small amount of contaminated dairy

imports entering the US food supply would risk consumer confidence and safety and the livelihood of thousands of dairy farmers and employees of cheese plants and other dairy processors, it is critical that FDA's protections be as stringent as possible.

I urge the FDA to immediately assess whether there are any remaining holes in our system of screening high protein products such as gluten and milk proteins for dangerous contaminants and make the results of the review public in order to reassure consumers. An amendment that I was able to include in the Senate version of the Farm Bill outlines some of the areas that FDA should focus on. These include:

- A description of the quantity and source of each type of high protein food ingredient imported into the US
- The percentage of imports in each category that were inspected and whether such inspections were basic or visual inspections or included laboratory analysis
- An evaluation of whether the laboratory testing used could detect adulteration with melamine or other high nitrogen compounds
- A break-down of the portion of each category of imports that were for human food versus animal feed use, including an analysis of the safeguards to prevent animal feed from entering the human food supply

While I was disappointed that my amendment was not included in the final Farm Bill, I hope FDA will undertake such evaluations, and I look forward to your response.

Sincerely,



Russell D. Feingold