II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 August 2006

on emergency measures regarding the non-authorised genetically modified organism LL RICE 601 in rice products

(notified under document number C(2006) 3863)

(Text with EEA relevance)

(2006/578/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(2), first subparagraph, thereof,

Whereas:

(1) Articles 4(2) and Article 16(2) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically food and feed [2] provide that no genetically modified food or feed is be placed on the Community market unless it is covered by an authorisation granted in accordance with that Regulation. Articles 4(3) and Article 16(3) of the same Regulation lay down that no genetically modified food and feed may be authorised unless it has been adequately and sufficiently demonstrated that it does not have adverse effects on human health, animal health or the environment, that it does not mislead the consumer or the user, and that it does not differ from the food or feed it is intended to replace to such an extent that its normal consumption would be nutritionally disadvantageous for humans or animals.

(2) On 18 August 2006, the authorities of the United States of America (the US authorities) informed the Commission that rice products contaminated with the genetically modified rice called 'LL RICE 601' ('the contaminated products'), which have not been authorised for placing on the market in the Community, had been found in rice samples taken on the US market from commercial long grain rice coming from the 2005 crop. The contamination of products was reported to the US authorities on 31 July 2006 by Bayer Crop Science, which is the company that developed the genetically modified rice LL RICE 601. The US authorities later informed the Commission that it is still not known to what extent the supply chain has been contaminated and that information on possible contamination of exports to the Community cannot be given for the moment. In addition, they informed the Commission that those products had not been authorised for placing on the market in the United States either.

(3) Without prejudice to the control obligations of the Member States, the measures to be adopted further to the likely imports of contaminated products should form a comprehensive and common approach allowing rapid and effective action to be taken and avoiding disparities between the treatment of the situation by the various Member States.

(4) 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 can not be contained satisfactorily by means of measures taken by the Member States concerned.

[1] OJ L 31, 1.2.2002, p. 1.
[2] OJ L 268, 18.10.2003, p. 1.

(5) Since genetically modified rice LL RICE 601 is not authorised under Community legislation and in view of the presumption of risk on products not authorised according to Regulation (EC) No 1829/2003, which takes into account the precautionary principle laid down in Article 7 of Regulation (EC) No 178/2002, it is appropriate to take emergency measures to prevent the placing on the market in the Community of the contaminated products.

(6) According to the general requirements laid down in Regulation (EC) No 178/2002, food and feed business operators have primary legal responsibility for ensuring that foods or feeds within the businesses under their control satisfy the requirements of food law and for verifying that such requirements are met. It is, therefore, the operators responsible for first placing food and feed on the market who should be under the duty to prove that they do not contain the contaminated products. To this end, the measures provided for by this Decision should require that consignments of specific products originating from the United States may be placed on the market only if an analytical report demonstrating that the products are not contaminated with the genetically modified rice LL RICE 601 is provided. The analytical report should be issued by an accredited laboratory conforming to internationally recognised standards.

(7) In order to facilitate controls, all genetically modified food and feed placed on the market should be subject to a validated method of detection. Bayer Crop Science has been requested to provide methods for detection of genetically modified rice LL RICE 601 as well as control samples. It has made available two methods which have been validated by the Grain Inspection, Packers and Stockyards Administration (GIPSA) of the US Department of Agriculture, in collaboration with the Community reference laboratory referred to in Article 32 of Regulation (EC) No 1829/2003 (the CRL).

(8) The measures provided for in this Decision must be proportionate and no more restrictive of trade than is required and should therefore cover only products considered likely to be contaminated with LL RICE 601, which according to the information received, are imported from the United States to the Community.

(9) Despite requests made by the Commission, the US authorities have been unable to provide any guarantee that rice products imported from the United States will not contain LL RICE 601 because of the lack of segregation or traceability measures in the United States.

(10) With regard to feed products or other food products not covered by the measures provided for in this Decision, Member States should monitor whether such products have been contaminated by LL RICE 601. On the basis of the information provided by Member States, the Commission will consider the need for any appropriate measure.

HAS ADOPTED THIS DECISION:

Article 1

Scope

This Decision applies to the following products originating from the United States of America:

— husked (brown) rice Parboiled Long A within CN code 1006 20 15,

— husked (brown) rice Parboiled Long B within CN code 1006 20 17,

— husked (brown) rice Long A within CN code 1006 20 96,

— husked (brown) rice Long B within CN code 1006 20 98,

— semi-milled Parboiled Long A within CN code 1006 30 25,

— semi-milled Parboiled Long B within CN code 1006 30 27,

— semi-milled Long A within CN code 1006 30 46,

— semi-milled Long B within CN code 1006 30 48,

— wholly milled Parboiled Long A within CN code 1006 30 65,

— wholly milled Parboiled Long B within CN code 1006 30 67,

— wholly milled Long A within CN code 1006 30 96,

— wholly milled Long B within CN code 1006 30 98,

— broken rice within CN code 1006 40 00 unless it is certified free of Long grain.

Article 2

Conditions for first placing on the market

1. Member States shall allow the first placing on the market of the products referred to in Article 1 only where an original analytical report based on a suitable and validated method for detection of genetically modified rice LL RICE 601 and issued by an accredited laboratory accompanying the consignment demonstrates that the product does not contain genetically modified rice LL RICE 601.

If a consignment of products referred to in Article 1 is split, a certified copy of the analytical report provided for in paragraph 1 shall accompany each part of the split consignment.

2. In the absence of such an analytical report, the operator established in the Community who is responsible for the first placing on the market of the product shall have the products referred to in Article 1 tested to demonstrate that they do not contain genetically modified rice LL RICE 601. Pending availability of the analytical report, the consignment shall not be placed on the market of the Community.

3. Member States shall inform the Commission of positive (unfavourable) results through the Rapid Alert System for food and feed.

Article 3

Other control measures

Member States shall take appropriate measures, including random sampling and analysis, concerning the products referred to in Article 1 already on the market in order to verify the absence of genetically modified rice LL RICE 601. They shall inform the Commission of positive (unfavourable) results through the Rapid Alert System for food and feed.

Article 4

Contaminated consignments

Member States shall take the necessary measures to ensure that the products referred to in Article 1 that are found to contain genetically modified rice LL RICE 601 rice are not placed on the market.

Article 5

Recovery of costs

Member States shall ensure that the costs incurred in the implementation of Articles 2 and 4 are borne by the operators responsible for the first placing on the market.

Article 6

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 23 August 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission