COMMISSION DECISION

of 7 March 2007

repealing Decision 2005/317/EC on emergency measures regarding the non-authorised genetically modified organism Bt10 in maize products

(notified under document number C(2007) 674)

(Text with EEA relevance)

(2007/157/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(1) thereof,

Whereas:

(1) 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 cannot be contained satisfactorily by means of measures taken by the Member States concerned.

(2) After being informed by the authorities of the United States of America that maize products contaminated with the unauthorised genetically modified maize called Bt10 were likely to have been exported to the Community and in view of the European Food Safety Authority statement concluding that in the absence of sufficiently comprehensive data it was impossible to carry out a full risk assessment of Bt10 in accordance with the standards laid down in Regulation (EC) No 1829/2003 of the European Parliament and of the Council [2], the Commission adopted on 18 April 2005 Decision 2005/317/EC on emergency measures regarding the non-authorised genetically modified organism Bt10 in maize products [3].

(3) Decision 2005/317/EC requires that consignments of maize products originating from the United States of America and likely to be contaminated (namely corn gluten feed and brewers grains for feed use) may be placed on the market only if an analytical report demonstrating that the products are not contaminated with genetically modified maize Bt10 is provided.

(4) In order to ensure proportionality and to avoid any restriction of trade going beyond what is required to protect human health, animal health or the environment, Decision 2005/317/EC contains a review clause to assess whether the emergency measures were still necessary.

(5) The measures were reviewed twice in October 2005 and March 2006 and, in consultation with the Member States the Commission concluded that they should remain in place until further information on exports of maize products likely to be contaminated with Bt10 was available.

(6) According to the analytical data provided by Syngenta, the company that developed the genetically modified maize Bt10, the tests completed in the United States and conducted in accordance with a test method validated by Joint Research Centre of the European Commission and verified by the United States Department of Agriculture show that no sample has tested positive to the presence of Bt10 since early November 2005. The appropriateness of the detection method has been further analysed and recently confirmed by the Joint Research Centre of the European Commission.

(7) On the basis of the information recently provided to the Commission by the United States authorities a series of actions have been taken by Syngenta with the involvement of the United States Department of Agriculture to ensure that Bt10 will not be propagated in the company's germoplasm and/or distributed in the commercial production pathway.

(8) Since the entry into force of Decision 2005/317/EC only one case of Bt10 entering Community territory has been registered, on 24 May 2005. A shipment of maize products contaminated by Bt10 left the United States before the availability of the analytical results of the testing and was notified by the importer prior to the arrival of the vessel to Ireland. The placing on the market of the contaminated products was thus prevented.

[1] OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 575/2006 (OJ L 100, 8.4.2006, p. 3).
[2] OJ L 268, 18.10.2003, p. 1. Regulation as amended by Commission Regulation (EC) No 1981/2006 (OJ L 368, 23.12.2006, p. 99).
[3] OJ L 101, 21.4.2005, p. 14.

(9) Apart from this specific case, no finding of Bt10 has been reported by Member States on the basis of the controls carried out by national competent authorities.

(10) On the basis of this information it can be concluded that it is no longer necessary to keep in place the compulsory certification requirement. It is therefore appropriate to repeal Decision 2005/317/EC.

(11) It is nevertheless appropriate that Member States keep monitoring, for a further period of six months, on the basis of a proper level of random testing, whether maize products contaminated by Bt 10 are still present on the market. Positive (unfavourable) results shall be rapidly communicated through the Rapid Alert System for food and feed in which case the Commission will evaluate whether further action is required.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/317/EC is repealed.

Article 2

For a further period of six months Member States shall ensure an appropriate level of random testing to verify the absence of the genetically modified maize Bt10 in the following products originating from the United States of America:

— corn gluten feed containing or produced from genetically modified maize within CN code 2309 90 20,

— brewers grains containing or produced from genetically modified maize within CN code 2303 30 00.

Positive (unfavourable) results shall be rapidly communicated through the Rapid Alert System for food and feed.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 7 March 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission