COMMISSION IMPLEMENTING DECISION

of 6 July 2011

on emergency measures applicable to fenugreek seeds and certain seeds and beans imported from Egypt

(notified under document C(2011) 5000)

(Text with EEA relevance)

(2011/402/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the 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)(b)(i) and Article 53(1)(b)(iii) thereof,

Whereas:

(1) Regulation (EC) No 178/2002 lays down the general principles governing food and feed in general, and food and feed safety in particular, at Community and national level. It provides for emergency measures where it is evident that food or feed imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned.

(2) On 22 May 2011 Germany reported an outbreak of Shiga-toxin producing Escherichia coli- bacteria (STEC), serotype O104:H4 in the Northern part of Germany. Based on epidemiological investigations and laboratory testing the source of contamination could be linked to the consumption of sprouted seeds produced in one establishment south of Hamburg.

(3) On 15 June 2011 France reported an outbreak in Bordeaux, France, which –according to preliminary results– was caused by the same E. coli strain (Shiga-toxin producing Escherichia coli – bacteria (STEC), serotype O104:H4) as the one found in Germany. Just as in the case of Germany, investigations indicate that consumption of sprouted seeds may have caused the outbreak.

(4) Further indicators suggest that the dry seeds used for sprouting could be the original cause of the outbreak in Germany and in France. In order to ascertain the origin of the contamination, the Commission initiated a tracing back exercise coordinated by the European Food Safety Authority (EFSA) in consultation with the European Centre for Disease Prevention and Control and the World Health Organisation. On 5 July 2011, EFSA published its final report. The report states that the comparison of the back tracing information from the French and German outbreaks leads to the conclusion that a lot of fenugreek seeds imported from Egypt is the most likely common link although it cannot be excluded that other lots may be implicated. Given the possible severe human health impact arising from exposure to a small quantity of contaminated material, and, in the absence of information regarding the source and means of contamination as well as possible cross-contamination, it seems appropriate currently to consider all lots of the identified exporter as suspect.

(5) In addition the present tracing back exercise supports the hypothesis that the outbreaks are linked and are due to the import of fenugreek seeds which were contaminated at the importation or prior to import into the EU. The contamination of seeds with the E. coli O104:H4 strain reflects a production process which allowed contamination of faecal material of human and/or animal origin. Where exactly in the food chain this took place is still uncertain and whether this has in the meantime been remedied is also unknown. Further microbiological sampling shall be carried out in Member States to complement the evidence derived from the epidemiological studies as provided for in Article 8 of Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC [2].

(6) On the basis of the precautionary principle it is necessary to temporary prohibit also the import of all seeds and beans originated from Egypt, identified in the Annex, to allow the time necessary for further assessment of their safety. It is evident that there is possible severe human health impact arising from exposure to a small quantity of contaminated material also from other seeds and beans and that there is no precise information regarding the exact origin in Egypt and means of the contamination as well as possible cross-contamination.

[1] OJ L 31, 1.2.2002, p. 1.

[2] OJ L 325, 12.12.2003, p. 31.

(7) Therefore it is appropriate to adopt, at European Union level, certain precautionary emergency measures to ensure that Member States adopt all necessary measures to withdraw from the EU market all lots of fenugreek seeds imported from Egypt during the period 2009 – 2011 mentioned in the notifications of the Rapid Alert System for Food and Feed linked to the tracing back exercise, to sample them and then destroy them and to temporarily suspend import from Egypt of all seeds and beans identified in the Annex to this Decision.

(8) In order to allow the time necessary for the Competent Authorities of Egypt to provide feedback and to consider the appropriate risk management measures the temporary suspension of imports should be in force at least until 31 October 2011.

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

HAS ADOPTED THIS IMPLEMENTING DECISION:

Article 1

Member States shall adopt all the necessary measures so that all lots of fenugreek seeds imported from Egypt during the period 2009 – 2011, mentioned in the notifications of the Rapid Alert System for Food and Feed linked to the tracing back exercise are withdrawn from the market and destroyed. In accordance with Article 8 of Directive 2003/99/EC the concerned lots shall be sampled.

Article 2

The release for free circulation in the EU of seeds and beans from Egypt as set out in the Annex is prohibited until 31 October 2011.

Article 3

The measures laid down in this Decision shall be regularly reassessed on the basis of the guarantees offered by Egypt, results of the analytical tests and investigations carried out by the Member States.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 6 July 2011.

For the Commission

John DALLI

Member of the Commission

ANNEX

Seeds and beans for which import from Egypt is prohibited until 31 October 2011:

CN Code	Description
ex 0704 90 90	Rocket sprouts
ex 0706 90 90	Beetroot sprouts, radish sprouts
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
0713	Dried leguminous vegetables, shelled, whether or not skinned or split
ex 0709 90 90	Soya bean sprouts
1201 00	Soya beans, whether or not broken
1209 10 00	Sugar beet seed
1209 21 00	Lucerne (alfalfa) seed
1209 91	Vegetable seeds
1207 50 10	Mustard seeds, for sowing
1207 50 90	Other mustard seeds
1207 99 97	Other oil seeds and oleaginous fruits, whether or not broken
0910 99 10	Fenugreek seed
ex 1214 90 90	Lucerne (alfalfa) sprouts