COMMISSION DECISION

of 31 May 2013

on a measure taken by Germany according to Article 11 of the Machinery Directive 2006/42/EC of the European Parliament and of the Council prohibiting the placing on the market of a chainsaw of the type HV 0003 manufactured by Regal Tools Co. Ltd

(notified under document C(2013) 3125)

(Text with EEA relevance)

(2013/260/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/42/EC of the European Parliament and of the Council [1] on machinery, and in particular Article 11 thereof,

Whereas:

(1) In accordance with Article 11(2) of Directive 2006/42/EC, the German authorities notified to the Commission and to the other Member States a measure prohibiting the placing on the market of a chainsaw of the type *HV 0003* manufactured by Regal Tools Co. Ltd, Technology Industrial Park, Chengxin Road 223, Yongkang, China, imported into the EU by Bergner Europe GmbH, Am Seestern 18, 40547 Düsseldorf, Germany.

(2) The reason for the measure given by the German authorities was the non-conformity of the chainsaw with the following essential health and safety requirements set out in Annex I to Directive 2006/42/EC (with reference to the specifications of the relevant European harmonised standard EN ISO 11681-1):

1.3.2. Risk of break-up during operation:

Both rear and front handles of the chainsaw failed the strength tests set out in the relevant harmonised European standard *(EN ISO 11681-1:2008 – clause 5.2.1)*;

1.7.4. Instructions:

The instructions did not include the business name and full address of the manufacturer (1.7.4.2 a), the EC declaration of conformity (1.7.4.2 c), a general description of the machinery (1.7.4.2 d), information on airborne noise emissions (1.7.4.2 u) and information on vibrations transmitted by the tool (2.2.1.1);

2.3 (c) Automatic brake:

The chainsaw did not stop in a sufficiently short time when the manual chain brake was activated nor under the conditions when the non-manual chain brake system shall be active (EN ISO 11681-1:2008 – clauses 5.5.1 and 5.5.2).

(3) The German authorities noted that, while the chainsaw bore the CE marking, it was not accompanied by an EC Declaration of conformity drawn up and signed by the manufacturer or his authorised representative as required by Article 5(1)(e) of Directive 2006/42/EC. They also noted that, while portable chainsaws are among the categories of machinery listed in Annex IV to the Directive to which one of the conformity assessment procedures referred to in Article 12(3) or (4) must be applied, proof had not been provided that the chainsaw of the type *HV 0003* had undergone such a procedure.

(4) The notification was accompanied by an inspection report established by the Deutsche Prüf- und Zertifizierungsstelle für Land- und Forsttechnik GbR.

(5) In accordance with the procedure set out in Article 11(3) of Directive 2006/42/EC, the Commission wrote to the manufacturer and the importer inviting them to comment on the measure taken by the German authorities.

(6) No reply was received from the manufacturer. The importer informed the Commission that sale of the chainsaw had ceased and that he no longer imported this type of chainsaw.

(7) Examination of the evidence provided by the German authorities confirms that the chainsaw of the type *HV 0003* manufactured by Regal Tools Co. Ltd fails to comply with the essential health and safety requirements of Directive 2006/42/EC and that this non-conformity gives rise to serious risks of injury to users,

HAS ADOPTED THIS DECISION:

Article 1

The measure taken by the German authorities prohibiting the placing on the market of a chainsaw of the type *HV 0003* manufactured by Regal Tools Co. Ltd is justified.

[1] OJ L 157, 9.6.2006, p. 24.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 31 May 2013.

For the Commission
Antonio TAJANI
Vice-President