

COMMISSION DECISION

of 10 June 2008

imposing special conditions governing the import of sunflower oil originating in or consigned from Ukraine due to contamination risks by mineral oil*(notified under document number C(2008) 2709)***(Text with EEA relevance)**

(2008/433/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), second subparagraph, thereof,

Whereas:

- (1) The Rapid Alert System for Food and Feed (RASFF) has been notified on 23 April 2008 that sunflower oil originating from Ukraine was found contaminated with high levels of mineral oil. This contamination by mineral oil was later confirmed in several consignments of crude sunflower oil originating from Ukraine imported in recent months in the Community. Sunflower oil containing high levels of mineral oil is unfit for human consumption and therefore deemed to be unsafe. The source of contamination is not yet known.
- (2) The European Commission has repeatedly urged the Ukrainian authorities to provide information on the origin of the contamination and on the measures taken to prevent it in future. Assurances were also sought from the Ukrainian authorities as to the establishment of effective measures aimed at guaranteeing the appropriate sampling and analysis on the presence of mineral oil in consignments of sunflower oil leaving Ukraine with destination the European Community.
- (3) Investigations aimed at identifying the source of contamination are ongoing in Ukraine. The Ukrainian authorities also committed to the establishment of an appropriate control system that will ensure that all consignments of sunflower oil to be exported to the European Union are certified as not containing levels of mineral oil making the sunflower oil unfit for human consumption.

However, the details of this control system have still to be provided to the Commission. The Commission should assess the control and certification system in order to verify the accuracy and the reliability to guarantee that the sunflower oil exported to the Community does not contain levels of mineral oil, making the sunflower oil unfit for human consumption. It has to be ensured that no exports of sunflower oil to the Community will take place until such control and certification system is put in place and assessed and accepted by the Commission. The assessment of the control and certification system will be performed on the basis of detailed information provided by the Ukrainian authorities.

- (4) After a request from the European Commission for an assessment of the risks related to the contamination of sunflower oil with mineral oil, the European Food Safety Authority (EFSA) published a statement on the contamination of sunflower oil with mineral oil exported from Ukraine. The statement refers to assessments performed by the joint FAO/WHO Expert Committee on Food Additives (JECFA) indicating the different level of toxicity depending of the type of mineral oil. EFSA concluded that the available analytical data for the contaminated sunflower oil from Ukraine indicated that the mineral oil present was of high viscosity. Based upon exposure estimates, EFSA concluded that the exposure of sunflower oil contaminated with high viscosity mineral oil, although being undesirable for human consumption, would not be of public health concern in this case. Given that the source of contamination has not yet been identified with certainty, there is the presumption of risk attached to the presence of unacceptable high levels of mineral oil in sunflower oil.
- (5) Given the level of risk, even once the control and certification system will be accepted by the Commission, Member States should control the consignments of sunflower oil in order to verify that such consignments contain a level of mineral oil conform to what it is declared in the certificate. This system of double control is necessary and justified in order to provide additional guarantees for the accuracy and reliability of the control and certification system put in place by the Ukrainian authorities. The costs incurred for carrying out these controls are to be borne by the operators responsible for the import. Member States should inform the Commission of unfavourable results through the Rapid Alert System for Food and Feed. Favourable results shall be reported to the Commission on a three-monthly basis. This obligation of information is necessary for the measures to be reassessed.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

- (6) 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 individually.
- (7) Pending the assessment and acceptance of the control and certification system to be put in place by the Ukrainian authorities, no imports of sunflower oil originating in or consigned from Ukraine should take place due to the risk of contamination with mineral oil.
- (8) Member States have been informed of the contamination incident and have taken the appropriate measures to withdraw the contaminated sunflower oil and food products containing contaminated sunflower oil already placed on the market, as recommended by the European Commission via the RASFF.
- (9) Given the urgency, pending the meeting of the Standing Committee on the Food Chain and Animal Health, and after having informed the authorities of Ukraine, the Commission adopted Decision 2008/388/EC on 23 May 2008 imposing special conditions governing the import of sunflower oil originating in or consigned from Ukraine due to contamination risks by mineral oil⁽¹⁾, in accordance with the procedure laid down in Article 53(2), first subparagraph of Regulation (EC) No 178/2002.
- (10) Those measures should be confirmed and amended as regards the costs of the controls, performed by the competent authorities of the Member States.
- (11) It is therefore appropriate to repeal and replace Decision 2008/388/EC.
- (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

1. Member States shall prohibit the import of sunflower oil, falling within CN codes 1512 11 91 or 1512 19 90 10, originating in or consigned from Ukraine (hereafter referred to as sunflower oil), unless the consignment of sunflower oil is accompanied by a valid certificate, certifying the absence of unacceptable levels of mineral oil and the results of sampling and analysis for the presence of mineral oil.

2. The certificate provided for in paragraph 1 shall only be valid for imports of consignments of sunflower oil into the Community if the sampling and analysis of the consignment and the issuance of the certificate have taken place after the European Commission has assessed and formally accepted the control and certification system put in place by the Ukrainian authorities.

3. Member States will be informed of the details of the control and certification system put in place by the Ukrainian authorities and of the formal acceptance of it by the Commission through the Standing Committee on the Food Chain and Animal Health.

4. Member States shall take the appropriate measures to sample and analyse each consignment of sunflower oil originating in or consigned from Ukraine, accompanied by a valid certificate, presented for import to ensure that the consignments contain a level of mineral oil conform to what it is declared in the certificate.

They shall inform the Commission of unfavourable results through the Rapid Alert System for Food and Feed. Favourable results shall be reported to the Commission on a three-monthly basis.

5. Member States shall take the necessary measures to ensure that the sunflower oil originating in or consigned from Ukraine, not complying with the provisions of this Decision, is not placed on the market for feed or food use.

6. Member States shall ensure that the costs incurred in the implementation of points 4 and 5 are borne by the operators responsible for the import.

Article 2

Decision 2008/388/EC is repealed.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 June 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 136, 24.5.2008, p. 43.