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**RAPID ALERT SYSTEM FOR FOOD IN THE EUROPEAN UNION
AND ITS POSSIBLE EXTENSION TO OTHER COUNTRIES OR ORGANISATIONS**

by

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1. INTRODUCTION

The globalisation of trade in foodstuffs is accelerating as tariff and non-tariff barriers are removed. It is particularly the case in the European Union where the creation of a single market has allowed food to circulate freely throughout the fifteen Member States. The abolition of health controls within the Community's internal borders has given rise to a need for instruments to deal with situations where dangerous products could circulate without any controls. The creation of a rapid alert system is one of these instruments.

2. DESCRIPTION OF THE EUROPEAN UNION'S RAPID ALERT SYSTEM

2.1 THE LEGAL BASIS

The European Community has had a rapid alert system since 1978. It was first established by a Council Decision as a general short-term warning system to deal with immediate and serious threats to the health and safety of consumers. This Decision was replaced in 1989 by another Council Decision setting up a Community system for the rapid exchange of information on dangers arising from the use of consumer products. This Decision was in turn replaced by a specific provision in Council Directive 92/59/EEC of 29 June 1992 on general product safety. Although changes are foreseen in February 2002, it is nevertheless worth recalling the principles that have underpinned the Community system for many years.

The Member States have a duty to provide as a matter of urgency information in the case of a serious risk to the health of consumers. It is applicable to all consumer products, food and non-food, insofar as these products are not already covered by specific equivalent provisions in other Community acts.

In legal terms, Member States are only obliged to inform the Commission in cases where the dangerous product could be placed on the market outside the territory of the Member State that has identified the specific risk. But in practice, as the single market becomes ever more integrated, it is becoming increasingly difficult to be sure that a product will not go beyond the borders of a given Member State and therefore it is useful to notify in any case.

The Commission's responsibilities are the following : to evaluate whether the information falls within the scope of the Directive and to forward the information to all the other Member States.

There are currently two networks : the food network and the non-food products network. The food network has progressively developed harmonised procedures and criteria based on consensus among the Member States. From a practical point of view, the system has constantly evolved to integrate, as far as possible, all the current computer and information technology has to offer.

2.2. DETAILED PROCEDURES FOR THE FUNCTIONING OF THE COMMUNITY RAPID ALERT SYSTEM

a) This system aims essentially at rapid exchange of information in the event of a serious risk to the health and safety of consumers. The Member States should endeavour to obtain as much information as possible on the products and the nature of the risk, without compromising speed.

b) As soon as a Member State has detected a serious risk, the effect of which extend or could extend beyond its territory, it immediately informs the Commission. All available details will be given, in particular on :

- information on the identity of the products ;
- the risk involved, including the results of any tests/analysis which are relevant to assessing the level of risk ;
- the nature of the measures taken or decided upon ;
- information on the distribution chain, whenever such information is available.

c) If the Member State considers certain information to be confidential, it should specify this, bearing in mind that the need to take effective measures to protect consumers normally outweighs considerations of confidentiality. Precautions are taken in all cases, both by the Commission and by the members of the network in the various Member States, to avoid any unnecessary disclosure of information likely to harm the image of a brand.

d) The Commission shall verify that the information received complies with the notification criteria, contact the notifying country, if necessary, and forward the information immediately by electronic mail to the relevant authorities in the other Member States.

e) At the same time, when it considers it necessary and in order to supplement the information received, the Commission can in exceptional circumstances set up an enquiry on its own initiative and /or convene the appropriate Committee.

f) The other Member States are requested, wherever possible, to inform the Commission without delay of the following :

- whether the product has been marketed in its territory ;
- supplementary information which it has obtained on the risk involved, including the results of any tests/analyses carried out to assess the level of risk ;
- and in any case they must inform the Commission as soon as possible of the following :
- measures taken or decided upon ;
- when the product mentioned in this information has been found on their territory, but no measures have been taken or decided upon, the reasons why no measures are taken.

2.3. PRACTICAL FUNCTIONING OF THE RAPID ALERT SYSTEM FOR FOOD

The rapid alert system includes the fifteen Member States and the countries of the European Economic Area (Norway, Liechtenstein and Iceland). It does not include other countries.

Each member of the rapid alert system must establish an official contact point to liaise with the Commission contact point in the network.

From a practical point of view, the system has, over time, developed three levels of information to be exchanged between the members of the system : alert notifications, information notifications and news.

*** Alert notifications**

These notifications warn about products that have already been placed on the market in more than one Member State and require immediate action to find and withdraw them from the market. The alerts are sent out by an official contact point of the network when a problem has been detected and measures have been or are going to be taken.

*** Information notifications**

The activities of the rapid alert system have steadily been extended, on a voluntary basis, to situations that may not require immediate action (because the product at fault has not been put on the EU market), but where the information is useful to the other participants in the network. The results of the safety checks carried out on imported food products at the point of entry into the Community (or the European Economic Area) are one such case. Since non-compliant products could be a risk they are not allowed into the Community and will therefore not be placed on the market. Nevertheless it is useful to circulate such information so that the other Member States and associated countries can make sure these products do not turn up at their own border points and that future shipments are subjected to the appropriate checks. The Commission therefore circulates this information in the same way as the alerts.

*** News**

Other useful information about health and safety problems in respect of food, which the Commission has not been informed of by a Member State or associated country as an alert or information notification, but which it thinks may be of interest to the control authorities, is sent out on the network as «News ». An example is information originating from the control systems of third countries.

Owing to the as yet incomplete Community harmonisation of standards for contaminants and microbiological criteria, alert and information notifications are often based on levels in excess of national standards and criteria. In all cases the Commission's services assess the information received and decide which category they come under for dissemination by the rapid alert system.

2.4. COMMUNICATION WITH THIRD COUNTRIES

There is no provision for the participation of third countries in the rapid alert system established by Directive 92/59/EEC, with the exception of the countries of the European Economic Area. Nevertheless, although there is no legally binding basis, the Commission informs the appropriate authorities of third countries through diplomatic channels in two circumstances :

- when investigations into the marketing of a food that has been the subject of an alert notification reveal that the product has been exported to a third country ;
- when a notification concerns a food imported from a third country, the authorities of the third country are informed of the notification, so that they can take the necessary steps to correct and avoid repetition of the problem.

3. IMPROVEMENTS TO THE EUROPEAN COMMUNITY'S RAPID ALERT SYSTEM FOR FOOD

The system established by Directive 92/59/EEC has been functioning for ten years, in the course of which some insufficiencies have been compensated for by a flexible approach, on a voluntary basis and following consensus between the Commission and the Member States.

The Council has adopted on 21 January 2002 a Regulation of the European Parliament and Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down the procedures in matters of food safety. This Regulation contains provisions aimed at establishing a new rapid alert system, as a network, for the notification of direct or indirect risks to human health deriving from food or animal feed. The Regulation will enter into force 20 days after its publication in the Official Journal of the European Communities.

The Regulation extends the rapid alert system to all food and feed and covers all direct and indirect risks whether the effects are immediate or not. It is also extended to cases when, for reasons of consumer safety, a food or animal feed is refused entry by the competent authorities at border inspection posts of the European Union.

The network will link up the Member States, the Commission and the new European Food Safety Authority. When a member of the network has information regarding a serious direct or indirect risk to human health associated with a food or animal feed, the information shall be forwarded immediately to the Commission via the rapid alert system. The Commission will therefore remain the central point of the system. The European Food Safety Authority may complete the notification with any specific or technical information to facilitate quick and appropriate risk management.

In the case of a batch rejected by the competent authorities of a Member State at a border inspection post, the Commission will immediately have to inform all the contact points in the network, all the border posts in the European Union as well as the competent authorities of the country of origin of the concerned food or feed. Likewise, when investigations reveal that food or animal feed that has been the subject of a rapid alert may have been exported to a third country, the Commission will have to provide the authorities of this third country with all the necessary information.

Finally, participation in the rapid alert system could be extended to third countries or international organisations through agreements between the Community and these countries or organisations, in ways that would have to be defined in the agreements.

4. THE UNDERLYING PRINCIPLES OF AN EXTENDED FOOD SAFETY COMMUNICATIONS NETWORK

The European Community has gained much experience in operating an information network about food risks for its fifteen Member States. The system only works correctly if the work of centralising the information, analysing it and redistributing it to all the participants in the network is managed by a single body. In the European Community, the Commission plays this role. If such a network were to be established on a more extended level, a similar body would have to be identified to play this role.

Each country wishing to participate in such a network must be in a position to offer its partners the same quality of information that it receives, which presupposes the setting up of systems for information gathering, analysing and tracing food products equivalent to those of the existing members of the network.

5. CONCLUSION

The European Community can draw on its long experience operating a rapid alert system for food. This experience has enabled it to propose to the Council and the European Parliament substantial improvements to the system, broadening its scope and clarifying its relations with third countries. The new Regulation containing these improvements has been adopted on 21 January 2002. It also contains opportunities for agreements between the Community rapid alert system and other systems developed by third countries or organisations. Although the creation of an extended network is not unrealistic, all parties involved must first agree on the fundamental principles governing the development and functioning of such a network.