

COMMISSION DECISION

of 10 October 2013

on a measure taken by Germany according to Article 11 of Directive 2006/42/EC of the European Parliament and of the Council prohibiting an electric mini-ATV of the type HB-ATV49Q-Electric manufactured by Huabao Electric Appliance Co. Ltd

*(notified under document C(2013) 6552)***(Text with EEA relevance)**

(2013/499/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 of 17 May 2006 on machinery, and amending Directive 95/16/EC ⁽¹⁾, 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 an electric mini-ATV (all-terrain vehicle) of the type HB-ATV49Q-Electric manufactured by Huabao Electric Appliance Co. Ltd, Zhiying Street, Guashan Industry Area, Yongkang, Zhejiang, China, imported into the EU by QBB Funsporthandel, Hofstraße 21, 56841 Traben-Trarbach, Germany.

(2) The reason for the measure given by the German authorities was the non-conformity of the mini-ATV with the following essential health and safety requirements set out in Annex I to Directive 2006/42/EC:

— 1.3.2 — Risk of break-up during operation

The frame of the ATV was liable to break up during use due to the low quality of the welding;

— 1.3.7 — Risks related to moving parts

The belt drive was accessible and was not guarded;

— 1.7.3 — Marking of machinery

The marking did not include the full name and address of the manufacturer;

— 1.7.4 — Instructions

The mini-ATV was not accompanied by instructions in German.

(3) The German authorities also noted that, while the product 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.

(4) The notification was accompanied by an inspection report established by the Landesamt für Umwelt, Wasserwirtschaft und Gewerbeaufsicht Rheinland-Pfalz.

(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. No reply was received.

(6) Examination of the evidence provided by the German authorities confirms that the electric mini-ATV of the type HB-ATV49Q-Electric manufactured by Huabao Electric Appliance 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 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 an electric mini-ATV of the type HB-ATV49Q-Electric manufactured by Huabao Electric Appliance Co. Ltd is justified.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 October 2013.

For the Commission

Antonio TAJANI

Vice-President

⁽¹⁾ OJ L 157, 9.6.2006, p. 24.