

COMMISSION DECISION

of 14 December 2009

amending Annexes I and II to Decision 2006/766/EC establishing the lists of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products are permitted*(notified under document C(2009) 9870)***(Text with EEA relevance)**

(2009/951/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption ⁽¹⁾, and in particular Article 11(1) thereof,

Whereas:

- (1) Regulation (EC) No 854/2004 provides that products of animal origin are only to be imported from a third country or part of a third country that appears on a list drawn up in accordance with that Regulation. It also lays down special conditions for the import of bivalve molluscs, tunicates, echinoderms and marine gastropods and of fishery products from third countries.
- (2) Regulation (EC) No 854/2004 provides that when drawing up and updating such lists, account is to be taken of Union controls in third countries and guarantees by the competent authorities of third countries as regards compliance or equivalence with the Union feed and food law and animal health rules as laid down in Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽²⁾.
- (3) Commission Decision 2006/766/EC of 6 November 2006 establishing the lists of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products are permitted ⁽³⁾ lists those third countries which satisfy the criteria referred to in Article 11(4) of Regulation (EC) No 854/2004 and are therefore able to

guarantee that those products exported to the European Union meet the sanitary conditions laid down in Union legislation to protect the health of consumers. Accordingly, Annex I to that Decision sets out a list of third countries from which imports of bivalve molluscs, echinoderms, tunicates and marine gastropods in any form for human consumption are permitted, while Annex II thereto sets out a list of third countries and territories from which imports of fishery products for human consumption in any form are permitted.

- (4) Commission Regulation (EC) No 2076/2005 of 5 December 2005 laying down transitional arrangements for the implementation of Regulations (EC) No 853/2004, (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council ⁽⁴⁾ lays down transitional measures for a period ending on 31 December 2009. Those measures include a derogation from Article 11(1) of Regulation (EC) No 854/2004, whereby Member States may authorise the import of bivalve molluscs and fishery products from the countries listed respectively in Annexes I and II thereto provided that, inter alia, the competent authority of the third country or territory has provided to the Member State concerned the guarantees that the products in question have been obtained in conditions at least equivalent to those governing the production and placing on the market of Union products.
- (5) Canada is currently included in the list in Annex I to Regulation (EC) No 2076/2005. Union controls in Canada to evaluate the control system in place governing the production of bivalve molluscs intended for export to the European Union, the last of which took place in 2009, together with the recommendation of the Joint Management Committee established by the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products ⁽⁵⁾ of 17 December 1998, concerning the reciprocal equivalence between Canadian and Union standards for live bivalve molluscs, indicate that the conditions applicable in Canada to bivalve molluscs, echinoderms, tunicates and marine gastropods destined to the European Union are equivalent to those provided for in the relevant Union legislation.

⁽¹⁾ OJ L 139, 30.4.2004, p. 206.⁽²⁾ OJ L 165, 30.4.2004, p. 1.⁽³⁾ OJ L 320, 18.11.2006, p. 53.⁽⁴⁾ OJ L 338, 22.12.2005, p. 83.⁽⁵⁾ OJ L 71, 18.3.1999, p. 3.

- (6) Greenland is currently included in the list in Annex I to Regulation (EC) No 2076/2005. Union controls in Greenland to evaluate the control system in place governing the production of bivalve molluscs intended for export to the European Union, the last of which took place in 2009, together with guarantees provided by the competent authority of Greenland, indicate that the conditions applicable in that third country to bivalve molluscs, echinoderms, tunicates and marine gastropods destined to the European Union are equivalent to those provided for in the relevant Union legislation. Accordingly, Greenland should be included in the list in Annex I to Decision 2006/766/EC.
- (7) Union controls in the United States to evaluate the control system in place governing the production of bivalve molluscs intended for export to the European Union, the last of which took place in 2009, indicated differences between the American and Union standards for live bivalve molluscs but did not identify serious risks for human health, except for the harvesting area of the Gulf of Mexico. The United States and the European Union have agreed to examine the reciprocal equivalence between US and Union standards for live bivalve molluscs. It is therefore appropriate to authorise, on a temporary basis, the imports into the European Union of bivalve molluscs, echinoderms, tunicates and marine gastropods from the United States, excluding bivalve molluscs harvested in the Gulf of Mexico. This temporary authorisation should be reviewed six months after its entry into force, taking into account the results of the examination of the equivalence between US and Union standards for live bivalve molluscs.
- (8) Angola, Azerbaijan, Benin, Congo, Eritrea, Israel, Myanmar, the Solomon Islands, Saint Helena and Togo are currently included in the list in Annex II to Regulation (EC) No 2076/2005. Union controls to evaluate the control system in place governing the production of fishery products intended for export to the European Union, the last of which took place in Angola in 2007, in Azerbaijan in 2007, in Benin in 2009, in Congo in 2009, in Eritrea in 2008, in Israel in 2009, in Myanmar in 2009, in the Solomon Islands in 2007, in Saint Helena in 2003, and in Togo in 2009, together with guarantees provided by the competent authorities of Angola, Azerbaijan (for caviar only), Benin, Congo (for fishery products caught, gutted (where appropriate), frozen and packed in their final packaging at sea only), Eritrea, Israel, Myanmar (for wild caught frozen fishery products only), the Solomon Islands, Saint Helena and Togo (for live lobsters only), indicate that the conditions applicable in those third countries to fishery products destined to the European Union are equivalent to those provided for in the relevant Union legislation. Accordingly, those third countries should be included in the list in Annex II to Decision 2006/766/EC.
- (9) In addition, in order to take account of the differences in guarantees provided by those third countries, it is necessary to provide for certain restrictions in the lists in Annex I and II to Decision 2006/766/EC.
- (10) Saint Helena, Tristan da Cunha and Ascension constitute a single Overseas Territory. However, because these islands are remote from one another and are in practice governed separately, they have chosen to set up separate competent authorities responsible for the safety of fishery products. Therefore, the inclusion of Saint Helena as a third country from which imports of fishery products are permitted should not cover the islands of Tristan da Cunha and Ascension.
- (11) For the purpose of clarification of the Union legislation, the titles of Annexes I and II to Decision 2006/766/EC should be amended. The title of Annex I should make clear that imports of bivalve molluscs, echinoderms, tunicates and marine gastropods for human consumption, whether live, frozen or processed, are permitted only from the third countries included in this Annex. The title of Annex II should make clear that this Annex covers the import of fishery products as defined in point 3.1 of Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin⁽¹⁾, except for those covered by Annex I to this Decision. This separation is necessary because the Union requirements applicable to these two groups of products are different.
- (12) Decision 2006/766/EC should therefore be amended accordingly.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,
- ⁽¹⁾ OJ L 139, 30.4.2004, p. 55. Annex I: '3.1. "Fishery products" means all seawater or freshwater animals (except for live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods, and all mammals, reptiles and frogs) whether wild or farmed and including all edible forms, parts and products of such animals.'

HAS ADOPTED THIS DECISION:

(d) the following entry for the United States is inserted after the entry for Turkey:

Article 1

Decision 2006/766/EC is amended as follows:

1. Annex I is amended as follows:

(a) the title to Annex I is replaced by the following:

'ANNEX I

List of third countries from which imports are permitted of live, frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods for human consumption (*)

(*) Including those covered by the definition of fishery products in point 3.1, Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council (OJ L 139, 30.4.2004, p. 55).'

(b) the following entry for Canada is inserted after the entry for Australia:

'CA	CANADA'	
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(c) the following entry for Greenland is inserted after the entry for Chile:

'GL	GREENLAND'	
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'US	UNITED STATES OF AMERICA	Only until 1 July 2010 and excluding imports of bivalve molluscs harvested in the States of Florida, Texas, Mississippi, Alabama and Louisiana.'
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2. Annex II to Decision 2006/766/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall apply from 1 January 2010.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 14 December 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

ANNEX II

List of third countries and territories from which imports are permitted of fishery products for human consumption, other than those covered by Annex I to this Decision

(Countries and territories referred to in Article 11 of Regulation (EC) No 854/2004)

ISO code	Countries	Restrictions
AE	UNITED ARAB EMIRATES	
AG	ANTIGUA AND BARBUDA	Only live lobsters.
AL	ALBANIA	
AM	ARMENIA	Only live wild crayfish, heat processed non-farmed crayfish and frozen non-farmed crayfish.
AN	NETHERLANDS ANTILLES	
AO	ANGOLA	
AR	ARGENTINA	
AU	AUSTRALIA	
AZ	AZERBAIJAN	Only caviar.
BA	BOSNIA and HERZEGOVINA	
BD	BANGLADESH	
BJ	BENIN	
BR	BRAZIL	
BS	THE BAHAMAS	
BY	BELARUS	
BZ	BELIZE	
CA	CANADA	
CG	CONGO	Only fishery products caught, gutted (where appropriate), frozen and packed in their final packaging at sea.
CH	SWITZERLAND	
CI	COTE D'IVOIRE	
CL	CHILE	
CN	CHINA	
CO	COLOMBIA	
CR	COSTA RICA	
CU	CUBA	
CV	CAPE VERDE	
DZ	ALGERIA	
EC	ECUADOR	
EG	EGYPT	
ER	ERITREA	
FK	FALKLAND ISLANDS	
GA	GABON	

GD	GRENADA	
GH	GHANA	
GL	GREENLAND	
GM	GAMBIA	
GN	GUINEA	Only fish that has not undergone any preparation or processing operation other than heading, gutting, chilling or freezing. The reduced frequency of physical checks, provided for by Commission Decision 94/360/EC (OJ L 158, 25.6.1994, p. 41), shall not be applied.
GT	GUATEMALA	
GY	GUYANA	
HK	HONG KONG	
HN	HONDURAS	
HR	CROATIA	
ID	INDONESIA	
IL	ISRAEL	
IN	INDIA	
IR	IRAN	
JM	JAMAICA	
JP	JAPAN	
KE	KENYA	
KR	SOUTH KOREA	
KZ	KAZAKHSTAN	
LK	SRI LANKA	
MA	MOROCCO	
ME	MONTENEGRO	
MG	MADAGASCAR	
MM	MYANMAR	Only wild caught frozen fishery products (freshwater or seawater fish, shrimps, prawns).
MR	MAURITANIA	
MU	MAURITIUS	
MV	MALDIVES	
MX	MEXICO	
MY	MALAYSIA	
MZ	MOZAMBIQUE	
NA	NAMIBIA	
NC	NEW CALEDONIA	
NG	NIGERIA	
NI	NICARAGUA	
NZ	NEW ZEALAND	
OM	OMAN	
PA	PANAMA	
PE	PERU	
PF	FRENCH POLYNESIA	

PG	PAPUA NEW GUINEA	
PH	PHILIPPINES	
PM	SAINT PIERRE AND MIQUELON	
PK	PAKISTAN	
RS	SERBIA Not including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999	Only whole fresh fish from wild seawater catches.
RU	RUSSIA	
SA	SAUDI ARABIA	
SB	SOLOMON ISLANDS	
SC	SEYCHELLES	
SG	SINGAPORE	
SH	SAINT HELENA Not including the islands of Tristan da Cunha and Ascension	
SN	SENEGAL	
SR	SURINAME	
SV	EL SALVADOR	
TG	TOGO	Only live lobsters.
TH	THAILAND	
TN	TUNISIA	
TR	TURKEY	
TW	TAIWAN	
TZ	TANZANIA	
UA	UKRAINE	
UG	UGANDA	
US	UNITED STATES	
UY	URUGUAY	
VE	VENEZUELA	
VN	VIETNAM	
YE	YEMEN	
YT	MAYOTTE	
ZA	SOUTH AFRICA	
ZW	ZIMBABWE	