

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)

COMMISSION DECISION

of 14 December 2009

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(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<sup>(1)</sup>, 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<sup>(2)</sup>.
- (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<sup>(3)</sup> 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<sup>(4)</sup> 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<sup>(5)</sup> 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.
- (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<sup>(6)</sup>, 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,

HAS ADOPTED THIS DECISION:

*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<sup>(7)</sup>**

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

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 List of third countries and territories from which imports are permitted  
II 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

RI CACU 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 JAP

KOREA KZ KAZAKHSTAN LK SRI

LAN KAMAMORO CC MEMONTENEGRO 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 MOZA

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 STATES UY URUGUAY VE VENEZUELA VN VIETNAM YE YEMEN YT MAYOTTE ZASOUTH

AFRICA ZW ZIMBABWE

- (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) [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.’
- (7) 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.](#))’