

Official Journal

of the European Union

L 260

English edition

Legislation

Volume 50

5 October 2007

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⁽¹⁾ Text with EEA relevance

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 1163/2007

of 4 October 2007

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 October 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 October 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 4 October 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	35,2
	TR	108,9
	XS	28,3
	ZZ	57,5
0707 00 05	EG	135,3
	JO	151,2
	TR	109,7
	ZZ	132,1
0709 90 70	JO	139,2
	TR	116,2
	ZZ	127,7
0805 50 10	AR	82,7
	TR	72,9
	UY	83,4
	ZA	59,1
	ZZ	74,5
0806 10 10	BR	275,6
	IL	284,6
	MK	32,4
	TR	112,3
	US	222,2
	ZZ	185,4
0808 10 80	AR	87,7
	AU	138,9
	BR	45,1
	CL	80,0
	NZ	89,8
	US	97,1
	ZA	82,3
	ZZ	88,7
0808 20 50	CN	69,7
	TR	124,6
	ZA	65,4
	ZZ	86,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1164/2007**of 4 October 2007****entering a designation in the register of protected designations of origin and protected geographical indications (Holsteiner Karpfen (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006 and Article 17(2) thereof, the application submitted by Germany to enter the designation 'Holsteiner Karpfen' in the register was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) A statement of objection was notified to the Commission in accordance with Article 7 of Regulation (EC) No 510/2006. As this statement of objection was subsequently withdrawn, this designation must therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The designation contained in the Annex to this Regulation shall be entered in the register.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 October 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ C 306, 15.12.2006, p. 9.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.7. **Fresh fish, molluscs and crustaceans and products derived therefrom**

GERMANY

Holsteiner Karpfen (PGI)

DIRECTIVES

COMMISSION DIRECTIVE 2007/62/EC

of 4 October 2007

amending certain Annexes to Council Directives 86/362/EEC and 90/642/EEC as regards maximum residue levels for bifenazate, pethoxamid, pyrimethanil and rimsulfuron

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals ⁽¹⁾, and in particular Article 10 thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables ⁽²⁾, and in particular Article 7 thereof,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽³⁾, and in particular Article 4(1)(f) thereof,

Whereas:

- (1) The following active substances have been included in Annex I to Directive 91/414/EEC: pyrimethanil, pethoxamid, bifenazate and rimsulfuron by Commission Directives 2006/74/EC ⁽⁴⁾, 2006/41/EC ⁽⁵⁾, 2005/58/EC ⁽⁶⁾, and 2006/39/EC ⁽⁷⁾ respectively.
- (2) The inclusion in Annex I to Directive 91/414/EEC of the active substances concerned was based on the assessment of the information submitted concerning the proposed use. Information relating to that use has been submitted

by certain Member States in accordance with Article 4(1)(f) of that Directive. The information available has been reviewed and is sufficient to allow certain maximum residue levels (MRLs) to be fixed.

- (3) Where no Community MRL or provisional MRL exists, Member States are to establish a national provisional MRL in accordance with Article 4(1)(f) of Directive 91/414/EEC before plant protection products containing these active substances may be authorised.
- (4) Community MRLs and the levels recommended by the Codex Alimentarius are fixed and evaluated following similar procedures. There are a number of Codex MRLs for bifenazate. The MRLs based on Codex MRLs have been evaluated in the light of the risks for the consumers. No risk was established when using the toxicological end points based on the studies available to the Commission.

- (5) The Commission review reports which were prepared for the inclusion in Annex I to Directive 91/414/EEC of the active substances concerned, fixed the Acceptable Daily Intake (ADI) and, if necessary, the Acute Reference Dose (ARfD) for those substances. The exposure of consumers of food products treated with the active substance concerned has been assessed in accordance with Community procedures. Account has also been taken of guidelines published by the World Health Organisation ⁽⁸⁾ and the opinion of the Scientific Committee for Plants ⁽⁹⁾ on the methodology employed. It is concluded that MRLs proposed will not lead to those ADIs or ARfD being exceeded.

⁽¹⁾ OJ L 221, 7.8.1986, p. 37. Directive as last amended by Commission Directive 2007/57/EC (OJ L 243, 18.9.2007, p. 61).

⁽²⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Directive 2007/57/EC.

⁽³⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/52/EC (OJ L 214, 17.8.2007, p. 3).

⁽⁴⁾ OJ L 235, 30.8.2006, p. 17.

⁽⁵⁾ OJ L 187, 8.7.2006, p. 24.

⁽⁶⁾ OJ L 246, 22.9.2005, p. 17.

⁽⁷⁾ OJ L 104, 13.4.2006, p. 30.

⁽⁸⁾ Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

⁽⁹⁾ Opinion of the Scientific Committee on Plants regarding questions relating to amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC (Opinion expressed by the Scientific Committee on Plants, 14 July 1998) (http://europa.eu.int/comm/food/fs/sc/index_en.html).

- (6) In order to ensure that the consumer is adequately protected from exposure to residues resulting from unauthorised uses of plant protection products, provisional MRLs should be set for the relevant product/pesticide combinations at the lower limit of analytical determination.
- (7) The setting at Community level of such provisional MRLs does not prevent the Member States from establishing provisional MRLs for the substances concerned in accordance with Article 4(1)(f) of Directive 91/414/EEC and Annex VI to that Directive. It is considered that a period of four years is sufficient to permit further uses of the active substance concerned. The provisional MRLs should then become definitive.
- (8) It is therefore necessary to modify the MRLs set out in the Annexes to Directives 86/362/EEC and 90/642/EEC, to allow for proper surveillance and control of the prohibition of their uses and to protect the consumer.
- (9) Directives 86/362/EEC and 90/642/EEC should therefore be amended accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 86/362/EEC is amended in accordance with Annex I to this Directive.

Article 2

Annex II to Directive 90/642/EEC is amended in accordance with Annex II to this Directive.

Article 3

Member States shall adopt and publish, by 5 April 2008 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 6 April 2008.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 4

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 4 October 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

In Part A of Annex II to Directive 86/362/EEC, the following lines for bifenazate, pethoxamid, pyrimethanil and rimsulfuron are added:

Pesticide residues	Maximum levels in mg/kg
Bifenazate	0,01 (*) (p) CEREALS
Pethoxamid	0,01 (*) (p) CEREALS
Pyrimethanil	0,05 (*) (p) CEREALS
Rimsulfuron	0,05 (*) (p) CEREALS

(*) Indicates lower limit of analytical determination.

(p) Indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 25 October 2011.'

ANNEX II

In Part A of Annex II to Directive 90/642/EEC, the following columns for bifenazate, pethoxamid, pyrimethanil and rimsulfuron are added:

Groups and examples of individual products to which the MRLs apply	'Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
1. Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts		0,01 (*) (P)		0,05 (*) (P)
(i) CITRUS FRUIT	0,01 (*) (P)		10 (P)	
Grapefruit				
Lemons				
Limes				
Mandarins (including clementines and other hybrids)				
Oranges				
Pomelos				
Others				
(ii) TREE NUTS (shelled or unshelled)	0,01 (*) (P)			
Almonds			0,2 (P)	
Brazil nuts				
Cashew nuts				
Chestnuts				
Coconuts				
Hazelnuts				
Macadamia				
Pecans				
Pine nuts				
Pistachios			0,2 (P)	
Walnuts				
Others			0,05 (*) (P)	
(iii) POME FRUIT	0,01 (*) (P)		5 (P)	
Apples				
Pears				
Quinces				
Others				

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
(iv) STONE FRUIT	0,01 (*) (p)			
Apricots			3 (p)	
Cherries				
Peaches (including nectarines and similar hybrids)			10 (p)	
Plums			3 (p)	
Others			0,05 (*) (p)	
(v) BERRIES AND SMALL FRUIT				
(a) Table and wine grapes	0,01 (*) (p)		5 (p)	
Table grapes				
Wine grapes				
(b) Strawberries (other than wild)	2 (p)		5 (p)	
(c) Cane fruit (other than wild)	0,01 (*) (p)			
Blackberries			10 (p)	
Dewberries				
Loganberries				
Raspberries			10 (p)	
Others			0,05 (*) (p)	
(d) Other small fruit & berries (other than wild)	0,01 (*) (p)		5 (p)	
Bilberries				
Cranberries				
Currants (red, black and white)				
Gooseberries				
Others				
(e) Wild berries and wild fruit	0,01 (*) (p)		0,05 (*) (p)	
(vi) MISCELLANEOUS	0,01 (*) (p)			
Avocados				
Bananas			0,1 (p)	
Dates				
Figs				
Kiwi				
Kumquats				

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
Litchis				
Mangoes				
Olives (table consumption)				
Olives (oil extraction)				
Papaya				
Passion fruit				
Pineapples				
Pomegranate				
Others			0,05 (*) (p)	
2. Vegetables, fresh or uncooked, frozen or dry		0,01 (*) (p)		0,05 (*) (p)
(i) ROOT AND TUBER VEGETABLES	0,01 (*) (p)			
Beetroot				
Carrots			1 (p)	
Cassava				
Celeriac				
Horseradish				
Jerusalem artichokes				
Parsnips				
Parsley root				
Radishes				
Salsify				
Sweet potatoes				
Swedes				
Turnips				
Yam				
Others			0,05 (*) (p)	
(ii) BULB VEGETABLES	0,01 (*) (p)			
Garlic				
Onions			0,1 (p)	
Shallots				
Spring onions				
Others			0,05 (*) (p)	

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
(iii) FRUITING VEGETABLES				
(a) Solanacea				
Tomatoes	0,5 (p)		1 (p)	
Peppers	2 (p)		2 (p)	
Aubergines	0,5 (p)		1 (p)	
Okra				
Others	0,01 (*) (p)		0,05 (*) (p)	
(b) Cucurbits — edible peel	0,3 (p)		1 (p)	
Cucumbers				
Gherkins				
Courgettes				
Others				
(c) Cucurbits — inedible peel	0,01 (*) (p)		0,05 (*) (p)	
Melons				
Squashes				
Watermelons				
Others				
(d) Sweetcorn	0,01 (*) (p)		0,05 (*) (p)	
(iv) BRASSICA VEGETABLES	0,01 (*) (p)		0,05 (*) (p)	
(a) Flowering brassica				
Broccoli (including Calabrese)				
Cauliflower				
Others				
(b) Head brassica				
Brussels sprouts				
Head cabbage				
Others				
(c) Leafy brassica				
Chinese cabbage				
Kale				
Others				
(d) Kohlrabi				
(v) LEAF VEGETABLES AND FRESH HERBS	0,01 (*) (p)			
(a) Lettuce and similar				
Cress				

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
Lamb's lettuce				
Lettuce			10 (P)	
Scarole (broad-leaf endive)				
Rocket				
Leaves and stems of brassica, including turnip greens				
Others			0,05 (*) (P)	
(b) Spinach and similar			0,05 (*) (P)	
Spinach				
Beet leaves (chard)				
Others				
(c) Watercress			0,05 (*) (P)	
(d) Witloof			0,05 (*) (P)	
(e) Herbs			3 (P)	
Chervil				
Chives				
Parsley				
Celery leaves				
Others				
(vi) LEGUME VEGETABLES (fresh)	0,01 (*) (P)			
Beans (with pods)			2 (P)	
Beans (without pods)				
Peas (with pods)				
Peas (without pods)			0,2 (P)	
Others			0,05 (*) (P)	
(vii) STEM VEGETABLES (fresh)	0,01 (*) (P)			
Asparagus				
Cardoons				
Celery				
Fennel				
Globe artichokes				
Leeks			1 (P)	
Rhubarb				

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)			
	Bifenazate	Pethoxamid	Pyrimethanil	Rimsulfuron
Others			0,05 (*) (p)	
(viii) FUNGI	0,01 (*) (p)		0,05 (*) (p)	
(a) Cultivated mushrooms				
(b) Wild mushrooms				
3. Pulses	0,01 (*) (p)	0,01 (*) (p)	0,5 (p)	0,05 (*) (p)
Beans				
Lentils				
Peas				
Lupines				
Others				
4. Oilseeds	0,02 (*) (p)	0,01 (*) (p)	0,1 (*) (p)	0,05 (*) (p)
Linseed				
Peanuts				
Poppy seed				
Sesame seed				
Sunflower seed				
Rape seed				
Soya bean				
Mustard seed				
Cotton seed				
Hemp seed				
Pumpkin seed				
Others				
5. Potatoes	0,01 (*) (p)	0,01 (*) (p)	0,05 (*) (p)	0,05 (*) (p)
Early potatoes				
Ware potatoes				
6. Tea (dried leaves and stalks, fermented or otherwise, <i>Camellia sinensis</i>)	0,02 (*) (p)	0,02 (*) (p)	0,1 (*) (p)	0,1 (p)
7. Hops (dried), including hop pellets and unconcentrated powder	0,02 (*) (p)	0,02 (*) (p)	0,1 (*) (p)	0,1 (*) (p)

(*) Indicates lower limit of analytical determination.

(p) Indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 25 October 2011.'

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL DECISION

of 10 July 2007

establishing, in accordance with Article 104(8), that the action taken by the Czech Republic in response to the Recommendation of the Council in accordance with Article 104(7) of the Treaty establishing the European Community is proving to be inadequate

(2007/640/EC)

THE COUNCIL OF THE EUROPEAN UNION,

accordance with Article 104(6) of the Treaty, that an excessive deficit existed in the Czech Republic.

Having regard to the Treaty establishing the European Community, and in particular Article 104(8) thereof,

Having regard to the Recommendation from the Commission,

Whereas:

(1) According to Article 104 of the Treaty, Member States are to avoid excessive government deficits.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation. The Stability and Growth Pact includes Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ which was adopted to further the prompt correction of excessive general government deficits.

(3) By Council Decision 2005/185/EC⁽²⁾, it was decided, following a recommendation from the Commission in

(4) On 5 July 2004, in accordance with Article 104(7) of the Treaty and Article 3(4) of Regulation (EC) No 1467/97, the Council, based on a recommendation from the Commission, adopted a recommendation to the Czech authorities with a view to bringing the excessive deficit situation to an end as rapidly as possible and to taking action in a medium-term framework to achieve the objective of bringing the deficit below 3 % of GDP by 2008 in a credible and sustainable manner, in accordance with the path for deficit reduction specified in the convergence programme submitted by the authorities in May 2004 and endorsed in the Council Opinion of 5 July 2004 on the Convergence Programme of the Czech Republic, 2004-2007⁽³⁾, with the following intermediate annual targets: 5,3 % of GDP in 2004, 4,7 % of GDP in 2005, 3,8 % of GDP in 2006, 3,3 % of GDP in 2007. The Council established the deadline of 5 November 2004 to take effective action 'regarding the measures envisaged to achieve the 2005 deficit target'. The Czech Republic agreed to make the recommendation public.

(5) After the expiry of the deadline of 5 November 2004, the Commission concluded, in its Communication to the Council of 14 December 2004⁽⁴⁾, that no further steps were necessary under the excessive deficit procedure for the Czech Republic as the Czech government had taken effective action regarding the measures envisaged to achieve the 2005 deficit target. The November 2005 update of the convergence programme indicated a deficit of 2,7 % of GDP for 2008 which was endorsed by the Council on 24 January 2006.

⁽³⁾ OJ C 320, 24.12.2004, p. 1.

⁽⁴⁾ Communication from the Commission to the Council: The action taken by the Czech Republic, Cyprus, Malta, Poland and Slovakia in response to the Council recommendations under the excessive deficit procedure — SEC(2004) 1630, 22.12.2004.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6. Regulation as last amended by Regulation (EC) No 1056/2005 (OJ L 174, 7.7.2005, p. 5).

⁽²⁾ OJ L 62, 9.3.2005, p. 20.

(6) The assessment of the action taken by the Czech Republic to correct the excessive deficit by 2008 in response to the Council recommendation under Article 104(7) leads to the following conclusions:

- on 15 March 2007, the Czech Republic submitted the most recent update of the convergence programme, covering the period until 2009. The programme contained the following annual deficit projections: 4,0 % of GDP for 2007, 3,5 % of GDP for 2008 and 3,2 % of GDP for 2009. The programme also included an additional 'declaration of the new government' aiming to reduce the general deficit to 3,2 % of GDP in 2008 and 2,8 % of GDP in 2009 based on a wide range of as yet unknown policy measures,
- the Commission services' spring 2007 forecast, which projects that the deficit will reach 3,9 % of GDP and 3,6 % of GDP in 2007 and 2008 respectively on a no-policy change basis, confirms that, on current policies, the targets set in the Council recommendation under Article 104(7) for 2007 (3,3 % of GDP) and 2008 (below 3 % of GDP) will be missed. In structural terms (i.e. in cyclically-adjusted terms net of one-off and other temporary measures), the deficit would widen by 1¼ percentage points of GDP in 2007, after deteriorations in both 2005 and 2006,
- the higher 2007 deficit comes against much stronger growth than forecast at the time of the Council recommendation and is mainly due to increases in social spending decided before the 2006 parliamentary elections. The higher 2007 deficit is projected to occur against the background of much lower deficits in the preceding years than foreseen in the Council recommendation. This was due mainly to better than expected growth rather than durable cuts in expenditure.

(7) This leads to the conclusion that, while the Czech Republic has so far overachieved the budgetary targets for 2004-2006 of the consolidation path set in the Council recommendation of 5 July 2004, the 2007 deficit will be well above the target set by the Council and the 2008 deficit will on current policies clearly exceed the 3 % of GDP threshold. The Czech authorities' budgetary targets are not in line with the recommendations of the Council for a correction of the excessive deficit by the 2008 deadline. No unexpected adverse economic events with major unfavourable consequences for government finances as meant in Article 3(5) of Council Regulation (EC) No 1467/97 have occurred since the adoption of the recommendation. On the contrary, developments in the economy relevant for public finances have been significantly more favourable than expected,

HAS ADOPTED THIS DECISION:

Article 1

The action taken by the Czech Republic in response to the Council Recommendation of 5 July 2004 under Article 104(7) of the Treaty is proving to be inadequate to correct the excessive deficit within the deadline fixed by the Recommendation.

Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels, 10 July 2007.

For the Council
The President

F. TEIXEIRA DOS SANTOS

COUNCIL DECISION

of 1 October 2007

on the conclusion of consultations with the Republic of the Fiji Islands under Article 96 of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument

(2007/641/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾ as revised in Luxembourg on 25 June 2005 ⁽²⁾ (hereinafter referred to as 'the ACP-EC Partnership Agreement'), and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽³⁾, and in particular Article 3 thereof,

Having regard to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ⁽⁴⁾ (hereinafter referred to as 'the Development Cooperation Instrument'), and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The essential elements referred to in Article 9 of the ACP-EC Partnership Agreement have been violated.
- (2) The values referred to in Article 3 of the Development Cooperation Instrument have been violated.
- (3) On 18 April 2007, pursuant to Article 96 of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument, formal consultations began with the ACP countries and the Republic of the Fiji Islands during which the Fijian authorities gave specific commitments to remedy the problems identified by the European Union and to implement them.

- (4) Some substantive initiatives have been taken in respect of some of the commitments referred to above; nevertheless many important commitments concerning essential elements of the ACP-EC Partnership Agreement and the Development Cooperation Instrument have yet to be implemented,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with the Republic of the Fiji Islands under Article 96 of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument are hereby concluded.

Article 2

The appropriate measures set out in the annexed letter are hereby adopted as appropriate measures under Article 96(2)(c) of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument.

Article 3

This Decision shall enter into force on the day of its adoption.

It shall expire on 1 October 2009. It shall be reviewed regularly at least once every six months.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 1 October 2007.

For the Council
The President
M. LINO

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 287, 28.10.2005, p. 4.

⁽³⁾ OJ L 317, 15.12.2000, p. 376.

⁽⁴⁾ OJ L 378, 27.12.2006, p. 41.

ANNEX

Draft letter

H.E. Ratu Josefa ILOILO
President of the Republic of the Fiji Islands
Suva
Fiji

Excellency,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement and Article 3 of the Development Cooperation Instrument. The ACP-EC partnership is founded on respect for human rights, democratic principles and the rule of law, which form the essential elements of the Cotonou Agreement, and form the basis of our relations.

On 11 December 2006 the Council of the European Union condemned the military takeover in Fiji.

Under Article 96 of the Cotonou Agreement, and considering that the military takeover which took place on 5 December 2006 constituted a violation of the essential elements listed in Article 9 of that Agreement, the EU invited Fiji to consultations in order, as provided for in the Agreement, to thoroughly examine the situation and, where necessary, take steps to remedy it.

The formal part of those consultations began in Brussels on 18 April 2007. The Interim Government of Fiji made a presentation based on a submission dated 18 April 2007 on the reasons for the military takeover of 5 December 2006, on developments in the country's situation since the takeover, and on the Interim Government's programme for the transitional period.

The EU took note of the Interim Government's submission of 18 April 2007 to the EU.

For its part, the EU was pleased that the Interim Government confirmed a number of key commitments regarding human rights and fundamental freedoms, respect for democratic principles and the rule of law, as noted below, and proposed positive steps regarding their implementation. Fiji also agreed to close cooperation regarding the monitoring and verification of the commitments.

Most of the commitments made in the context of the consultations will be implemented over an extended period, and it is consequently necessary to monitor and verify their implementation closely over time. The EU underlines that, following the credible general elections held in Fiji as recently as May 2006 and in the light of the findings and recommendations of the EU Election Monitoring Mission, and notably the final report from the EU Chief Observer, MEP Istvan Szent-Ivanyi, the EU is of the view that new and credible elections can be held well within the agreed deadline of 28 February 2009.

The EU stresses the importance of early and full compliance with the agreed commitments listed in annex.

The EU notes that the Interim Government, in accordance with the agreed commitments, had lifted the Public Emergency Regulations on 31 May 2007 and that it accepted the findings and recommendations of the Pacific Islands Forum independent election experts on 19 June 2007.

The EU is concerned about the recent lack of progress by the interim Government on process and the substance of the commitments it has agreed to. The interim Government committed to regular dialogue and to giving full information to the EU on all matters linked to its other commitments. On substance, the EU notes in particular that the interim Government has yet to undertake a tribunal pursuant to Section 138(3) of the constitution due by 15 July 2007 and looks forward to a decision as soon as possible.

In the spirit of partnership that underlies the Cotonou Agreement and in the light of the positive outcome of the consultations, the EU expressed its readiness to support implementation of Fiji's commitments. The EU looks forward to regular dialogue meetings being resumed on a regular basis, in accordance with the commitment made by the Interim Government.

The EU has adopted the following appropriate measures under Article 96(2)(c) of the revised Cotonou Agreement and Article 37 of the Development Cooperation Instrument:

- humanitarian aid as well as direct support to civil society may continue,
- cooperation activities under way and/or in preparation, in particular under the 8th and 9th EDFs may continue,
- the 9th EDF End-of-term Review may proceed,
- cooperation activities, which would help the return to democracy and improve governance, may be pursued, save under very exceptional circumstances,
- implementation of the sugar reform accompanying measures for 2006 may proceed. The financing agreement was signed at the technical level by Fiji on 19 June 2007. It is noted that the financing agreement includes a suspension clause,
- the Interim Government's acceptance on 19 June 2007 of the report of 7 June 2007 by the Pacific Islands Forum's independent election experts is in line with Commitment No 1 agreed on 18 April 2007 between the Interim Government and the EU. Consequently, the preparation and eventual signing of the multi-annual indicative programme for sugar reform accompanying measures for 2008-2010 can proceed,
- the finalisation, signing at the technical level and implementation of the Country Strategy Paper and National Indicative Programme for the 10th EDF with an indicative financial envelope, as well as the possible allocation of an incentive tranche of up to 25 % of this sum, will be subject to respect of the commitments made with regard to human rights and the rule of law; notably that the Interim Government upholds the Constitution, that the independence of the judiciary is fully respected and that the Public Emergency Regulations, reintroduced on 6 September 2007, are lifted as soon as possible, that all allegations of human rights infringements are investigated or dealt with in accordance with the various procedures and forums under the laws of the Fiji Islands and that the Interim Government shall use best endeavours to prevent statements by security agencies destined to intimidate,
- the 2007 sugar allocation will be zero,
- the 2008 sugar allocation will become available, subject to evidence of credible and timely preparation of elections in accordance with the agreed commitments; notably regarding census, redrafting of boundaries and electoral reform in accordance with the Constitution, that measures will be taken to ensure the functioning of the Elections Office, including the appointment by a Supervisor of Elections by 30 September 2007 in accordance with the Constitution,
- the 2009 sugar allocation will become available subject to a legitimate government being in place,
- the 2010 sugar allocation will depend on progress made in implementing the 2009 sugar allocation and the continuation of the democratic process,
- additional support for the preparation and implementation of key commitments, in particular in support of the preparation and/or holding of elections, could be considered over and above what is described in this letter,
- regional cooperation, and Fiji's participation in it, is unaffected,
- cooperation with the European Investment Bank and the Centre for the Development of Enterprise may continue subject to the timely fulfilment of commitments made.

Follow-up of the commitments will be in accordance with the commitments on monitoring in terms of regular dialogue, cooperation with missions and reporting, as referred to in Annex.

Furthermore, the EU expects Fiji to cooperate fully with the Pacific Islands Forum regarding the implementation of the recommendations by the Eminent Persons' Group, as endorsed by the Forum Foreign Ministers at their meeting in Vanuatu on 16 March 2007.

The European Union will continue to follow the situation in Fiji closely. Under Article 8 of the Cotonou Agreement, an enhanced political dialogue will be conducted with Fiji to ensure the respect for human rights, restoration of democracy and respect for the rule of law until both parties conclude that the enhanced nature of dialogue has served its purpose.

If there is a slowing down, breakdown or reversal in the implementation by the Interim Government of the commitments made, the EU reserves the right to adjust the appropriate measures.

The EU stresses that Fiji's privileges in its cooperation with the EU depend on respect for the essential elements of the Cotonou Agreement and for the values referred to in the Development Cooperation Instrument. In order to convince the EU that the interim government is fully prepared to follow-up on the commitments given, it is essential that early and substantial progress is made in the fulfilment of the agreed commitments.

Yours sincerely,

Done at Brussels,

For the Commission

For the Council

*Annex to the Annex***AGREED COMMITMENTS WITH THE REPUBLIC OF THE FIJI ISLANDS****A. Respect for democratic principles**

Commitment No 1

That free and fair parliamentary elections take place within 24 months from 1 March 2007 subject to the findings of the assessment to be carried out by the independent auditors appointed by the Pacific Islands Forum Secretariat. The processes leading to and the holding of the elections shall be jointly monitored, adapted and revised as necessary on the basis of mutually agreed benchmarks. This implies in particular:

- that by 30 June 2007 the Interim Government will adopt a schedule setting out dates for the completion of the various steps to be taken in preparation for the new Parliamentary Elections,
- that the schedule specifies the timing of census, redrafting of boundaries and electoral reform,
- that determination of boundaries and electoral reform shall be carried out in accordance with the Constitution,
- that measures will be taken to ensure the functioning of the Elections Office including the appointment of a Supervisor of Elections by 30 September 2007 in accordance with the Constitution,
- that the appointment of the Vice-President shall be made in accordance with the Constitution.

Commitment No 2

That the Interim Government, when adopting major legislative, fiscal and other policy initiatives and changes, shall take into account consultations with civil society and all other relevant stakeholders.

B. Rule of law

Commitment No 1

That the Interim Government shall use best endeavours to prevent statements by security agencies destined to intimidate.

Commitment No 2

That the Interim Government upholds the 1997 Constitution and guarantees the normal and independent functioning of Constitutional institutions, such as the Fiji Human Rights Commission, Public Service Commission, Constitutional Offices Commission. The substantial independence and functioning of the Great Council of Chiefs will be preserved.

Commitment No 3

That the independence of the judiciary is fully respected, that it is allowed to work freely and that its rulings are respected by all concerned parties, in particular:

- that the Interim Government undertakes that the tribunal pursuant to Section 138(3) of the Constitution be appointed by 15 July 2007,
- that any appointment and/or dismissal of judges is henceforth carried out in strict conformity with Constitutional provisions and procedural rules,
- that no instances whatsoever occur, of whatever form, of interference by the military and the police or by the Interim Government with the judicial process, including full respect for the legal profession.

Commitment No 4

That all criminal proceedings linked to corruption are dealt with through the appropriate judicial channels and that any other bodies that may be set up to investigate alleged cases of corruption will operate within constitutional boundaries.

C. Human Rights and Fundamental Freedoms**Commitment No 1**

The Interim Government will take all necessary steps to facilitate that all allegations of human rights infringements are investigated or dealt with in accordance with the various procedures and forums under the laws of the Fiji Islands.

Commitment No 2

The Interim Government intends to lift the Public Emergency Regulations in May 2007 subject to any threats to national security, public order and safety.

Commitment No 3

The Interim Government is committed to ensuring that the Fiji Human Rights Commission functions with full independence and in accordance with the Constitution.

Commitment No 4

That the freedom of expression and the freedom of the media, in all its forms are fully respected as provided in the Constitution.

D. Follow-up of commitments**Commitment No 1**

That the Interim Government undertakes to maintain a regular dialogue to allow verification of progress made and gives EU and EC authorities/representatives full access to information on all matters linked to human rights, the peaceful restoration of democracy and the rule of law in Fiji.

Commitment No 2

That the Interim Government cooperates fully with eventual missions from the EU and the EC for assessing and monitoring progress.

Commitment No 3

That the Interim Government sends progress reports every three months starting 30 June 2007 regarding the essential elements of the Cotonou Agreement and the commitments.

It is noted that certain issues can only be effectively addressed through a pragmatic approach which acknowledges the realities of the present and which focuses on the future.

COMMISSION DECISION**of 4 October 2007****on emergency measures applying to fishery products imported from Albania and intended for human consumption***(notified under document number C(2007) 4482)***(Text with EEA relevance)****(2007/642/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(1)(b) thereof,

Whereas:

(1) In accordance with Regulation (EC) No 178/2002, the necessary measures must be adopted where it is evident that food imported from a third country is likely to constitute a serious risk to human health, animal health or the environment and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned.

(2) Under 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⁽²⁾, food business operators must ensure that the limits with regard to histamine in fishery products are not exceeded. Those limits, together with the sampling and analytical methods, were established by Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs⁽³⁾.

(3) A recent Community inspection in Albania has revealed a limited capacity of the Albanian authorities to carry out the necessary checks, in particular to detect histamine in fish and fishery products.

(4) Excessive levels of histamine in fishery products constitute a serious risk for human health.

(5) It is appropriate to adopt at Community level measures applicable to imports of fishery products which might be contaminated to ensure effective and uniform protection in all the Member States.

(6) Imports into the Community of fishery products from fish species associated with a high amount of histamine, should be authorised only if it can be shown that they have been subjected to a systematic check at origin to verify that their histamine levels do not exceed the limits set by Regulation (EC) No 2073/2005.

(7) However, it is appropriate to temporarily authorise, the import of consignments that are not accompanied by the results of checks at origin, provided that Member States ensure that those consignments undergo appropriate checks on arrival at the Community border to verify that their histamine levels do not exceed the limits set by Regulation (EC) No 2073/2005. This temporary authorisation should be limited to the time that would allow the Albanian authorities to build their own check capacity.

(8) Regulation (EC) No 178/2002 sets up the rapid alert system for food and feed, which should be used to implement the mutual information requirement provided for in Article 22(2) of Council Directive 97/78/EC⁽⁴⁾. In addition, the Member States should keep the Commission informed through periodical reports of all analytical results of official controls carried out in respect of consignments of fishery products from Albania.

(9) This Decision should be reviewed in the light of the guarantees offered by Albania and on the basis of the results of the tests carried out by Member States.

(10) 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 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 575/2006 (OJ L 100, 8.4.2006, p. 3).

⁽²⁾ OJ L 139, 30.4.2004, p. 55, as corrected by OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽³⁾ OJ L 338, 22.12.2005, p. 1.

⁽⁴⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

HAS ADOPTED THIS DECISION:

Article 1

Scope

This Decision shall apply to fishery products of fish belonging to the families *Scombridae*, *Clupeidae*, *Coryfenidae*, *Pomatomidae* and *Scombrosidae* imported from Albania and intended for human consumption.

Article 2

Analytical tests for histamine

1. Member States shall authorise the import into the Community of products referred to in Article 1 only if they are accompanied by the results of an analytical test for histamine carried out in Albania or a foreign accredited laboratory before consignment which reveals histamine levels below the limits set by Regulation (EC) No 2073/2005. These tests must be carried out following the sampling and the analytical method referred in Regulation (EC) No 2073/2005.

2. By way of derogation from paragraph 1, Member States shall authorise the import of products referred to in Article 1 that are not accompanied by the results of the analytical test as referred to in paragraph 1 provided that the importing Member State ensures that each consignment of those products undergoes tests to verify that the histamine levels are below the limits set by Regulation (EC) No 2073/2005. These tests must be carried out following the sampling and the analytical method referred in Regulation (EC) No 2073/2005. The competent authority shall place the consignment concerned under official detention until it obtains a favourable result.

Article 3

Reports

Member States shall immediately inform the Commission if tests carried out pursuant to Article 2(2) reveal histamine levels exceeding the limits set by Regulation (EC) No 2073/2005 for fishery products.

Member States shall submit to the Commission a report on all tests carried out pursuant to Article 2(2).

Member States shall use the rapid alert system for food and feed set up by Regulation (EC) No 178/2002 for the submission of that information and those reports.

Article 4

Charging of expenditure

All expenditure incurred in the application of this Decision shall be charged to the consignor, the consignee or the agent of either.

Article 5

Compliance

Member States shall immediately inform the Commission of the measures they take to comply with this Decision.

Article 6

Period of application

This Decision shall be reviewed on the basis of the information and guarantees provided by the Albanian authority and, if necessary, the results of an on-the-spot inspection visit by Community experts.

Article 7

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 4 October 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission