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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, ~~29.6.~~[17.7.2006](#)

Draft

**COMMISSION REGULATION (EC) No .../..**

**of [...]**

**amending 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 No 882/2004 of the European Parliament and of the Council**

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COMMISSION REGULATION (EC) No .../..

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**amending 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 No 882/2004 of the European Parliament and of the Council**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard 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>1</sup>, and in particular Article 9 thereof,

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>2</sup>, and in particular Article 16 thereof,

Whereas:

~~(1) Regulation (EC) No 853/2004 lays down specific requirements concerning hygiene rules for food of animal origin.~~

~~Regulation (EC) No 854/2004 lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption.~~

(1) ~~Commission Regulation (EC) No 2076/2005 of 5 December 2005 lays 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 and amending Regulations (EC) No 853/2004 and (EC) No 854/2004<sup>3</sup> lays down transitional arrangements for the implementation of Regulations (EC)~~

<sup>1</sup> OJ L 139, 30.4.2004, p.55. Corrected by OJ L 226, 25.6.2004, p. 22.

<sup>2</sup> OJ L 139, 30.4.2004, p.206. Corrected by OJ L 226, 25.6.2004, p. 83.

<sup>3</sup> OJ L 338, 22.12.2005, p. 83

No 853/2004, (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council. It is necessary to amend certain provisions~~rules~~.

- (2) ~~Commission~~ Decision [SANCO/10245/2006 rev.56] draws up a list of third countries which satisfy the conditions referred to in Article 11 (4) of Regulation (EC) N° 854/2004 and which are therefore able to guarantee that ~~fishery products and~~ bivalve molluscs, tunicates, echinoderms and marine gastropods and fishery products exported to the Community meet the sanitary conditions laid down in Community legislation to protect the health of consumers.
- (3) Commission Decisions 97/20/EC<sup>4</sup> and 97/296/EC<sup>5</sup> allowed certain third countries which had not yet undergone a Community control to export ~~fishery products and~~ live bivalve molluscs and fishery products into the Community under certain conditions. ~~These~~ decisions are repealed by ~~Commission~~ Decision [SANCO/226/2006 Rev 7]. This possibility is not foreseen by Regulation (EC) N° 854/2004. In order to avoid any disruption of the traditional pattern of trade, that possibility should be maintained on a transitional basis.
- (4) The conditions to be applied to imports of ~~fishery products and~~ live bivalve molluscs, tunicates, echinoderms and marine gastropods and fishery products from these third countries or territories should be at least equivalent to those governing the production and placing on the market of Community products;
- (5) Without prejudice to~~Notwithstanding~~ the general principle laid down in Annex II Chapter II ~~part~~point A ~~point~~(4) of Regulation (EC) No 854/2004 whereby live bivalve molluscs from classified B areas must not exceed the limits of 4600 *E.coli* per 100 g of flesh and intravalvular liquid, tolerance in 10% of samples should be allowed for live bivalve molluscs originating from ~~those~~class B areas. Since the tolerance in 10% of samples does not represent a risk for public health and with a view to allowing competent ~~a~~Authorities to adapt progressively to the scope of the relevant provisions in Regulation (EC) No 854/2004 regarding the classification of B areas, a transitional period should be granted for the classification of those~~of class B~~ areas ~~from which live bivalve molluscs may be collected~~
- (6) Regulation (EC) No 2076/2005 should be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EC) No 2076/2005 is amended as follows:

(1) In Article 7, the following paragraphs 3 and 4 are added:

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<sup>4</sup> OJ N° L 6, 10. 1. 1997, p. 46

<sup>5</sup> OJ N° L 122, 14. 5. 1997, p. 21

~~“3. By way of derogation from Annex III, Section VIII, Chapter III, Part E to Regulation 853/2004, food business operators may continue until 31 October 2007 to import fish oil from establishments in third countries that were approved for that purpose before the entry into force of Regulation [SANCO 2376/2006].~~

4. By way of derogation from Annex VI to Regulation (EC) 2074/2005, the products referred in that Annex for which the relevant import certificates have been issued in accordance with the harmonised Community rules in force before 1 January 2006 where applicable, and with the national rules implemented by the Member States before that date in other cases, may be imported into the Community until 1 May 2007 ~~[6 months after the date of entry into force of Regulation [SANCO/2376/2006].~~

~~(a) frogs' legs, snails, gelatine intended for human consumption, raw materials for the production of gelatine intended for human consumption, collagen intended for human consumption, raw materials for the production of collagen intended for human consumption, fishery products and live bivalve molluscs, and~~

~~(b) honey and other apiculture products, and fish oil intended for human consumption,~~

~~for which the relevant import certificates have been issued in accordance with the harmonised Community rules in force before 1 January 2006 where applicable, and with the national rules implemented by the Member States before that date in other cases, may be imported into the Community until 6 months after the date of entry into force of Regulation [SANCO/2376/2006].'~~

#### *Article 2*

(2) In Article 17 ~~the following paragraph 2 is added~~is replaced by the following:

#### *'Article 17*

#### *Health import conditions*

~~1. Chapter III of Regulation (EC) No 854/2004 shall not apply to imports of food of animal origin for which no harmonised health import conditions have been established, including lists of third countries and parts of third countries and of establishments from which imports are permitted.~~

~~Pending future harmonisation of Community legislation concerning imports of such products, such imports shall comply with the health import conditions of the Member State concerned.~~

~~“2. By way of derogation from Article 11(1) of Regulation (EC) N° 854/2004, the Member States may authorise the import of bivalve molluscs and fishery products from the countries listed respectively in Annex I and Annex II to this Regulation, provided that :~~

- (a) 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 Community products and
- (b) the competent authority of the third country or territory~~they~~ take appropriate measures in order to ensure that these imported products are accompanied by the model health certificates laid down in Decisions 95/328/EC<sup>6</sup> and 96/333/EC<sup>7</sup> and marketed only on the domestic market of the importing Member State or Member States allowing the same import.<sup>1</sup>

~~Article 3~~

(3) The following Article 17a is inserted:

Article 17a

*Classification of production and relaying areas for live- bivalve molluscs*

By way of derogation from Chapter II (A) (4) of Annex II to Regulation (EC) No 854/2004, the competent authority may continue to classify as being of Class B areas for which the relevant limits of 4600 *E. coli* par 100g are not exceeded in 90% of samples.<sup>21</sup>

~~Article 4~~

(4) Annex I and Annex II are~~is~~ added in accordance with the Annex ~~I~~ to this Regulation.

~~Article 5~~

~~Annex II is added in accordance with Annex II to this Regulation.~~

~~Article 21~~

This Regulation shall enter into force on the seventh day following that of 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.

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<sup>6</sup> OJ L 191, 12.8.1995, p. 32.

<sup>7</sup> OJ L 127, 25.5.1996, p. 33.

Done at Brussels, [...]

*For the Commission*

[...]

*Member of the Commission*

ANNEX I

“ANNEX I

List of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates and marine gasteropods in whatever form for human consumption may be permitted

CA - CANADA

GL - GREENLAND

US - UNITED STATES OF AMERICA’

ANNEX II

ANNEX II

List of third countries and territories from which imports of fishery products in whatever form for human consumption may be permitted

AO – ANGOLA

AZ – AZERBAIJAN<sup>8</sup>

BJ – BENIN

CG – REPUBLIC OF CONGO<sup>9</sup>

CM – CAMEROON

ER – ERITREA

FJ – FIJI

IL – ISRAEL

MM – MYANMAR

SB – SOLOMON ISLANDS

SH – ST HELENA

TG – TOGO<sub>2</sub>

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<sup>8</sup> Authorised only for imports of caviar.

<sup>9</sup> Authorised only for imports of fishery products caught, frozen and packed in their final packaging at sea.