

COMMISSION IMPLEMENTING DECISION

of 6 November 2012

amending the Annexes to Decision 2006/766/EC as regards the entries in the lists of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products for human consumption are permitted*(notified under document C(2012) 7696)***(Text with EEA relevance)**

(2012/692/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.
- (2) Regulation (EC) No 854/2004 also provides that when drawing up and updating such lists, account is to be taken of Union controls in third countries and guarantees provided by the competent authorities of third countries, as regards compliance or equivalence with the Union feed and food law and animal health rules as specified 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 Regulation (EC) No 854/2004 and are therefore able to guarantee that exports of those products to the Union meet the sanitary conditions laid down in Union legislation to protect the health of consumers. In particular, Annex I to that Decision sets

out a list of third countries from which imports are permitted of bivalve molluscs, tunicates, echinoderms and marine gastropods and Annex II to that Decision sets out a list of third countries and territories from which imports of fishery products for human consumption are permitted. Those lists also indicate restrictions concerning such imports from certain third countries.

- (4) A Commission inspection was carried out in Croatia from 23 November to 2 December 2010 to evaluate the control systems in place governing the production of live bivalve molluscs intended for export to the Union. A number of deficiencies were identified which were subsequently corrected. The control systems in place in that third country currently provide sufficient guarantees to ensure adequate consumer health protection for bivalve molluscs exported from Croatia to the Union. Croatia should therefore be included in the list set out in Annex I to Decision 2006/766/EC.
- (5) A Commission inspection was carried out in Brunei from 25 to 28 April 2012 to evaluate the control systems in place governing the production of fishery products intended for export to the Union. No deficiencies considered to have significant implications for consumer health protection were identified during that inspection with regard to the production of aquaculture products. Brunei should therefore be included in the list of third countries set out in Annex II to Decision 2006/766/EC, together with an indication that only imports of aquaculture products are permitted into the Union from that third country.
- (6) A Commission inspection was carried out in Togo from 8 to 11 June 2009. Official checks and hygiene certification for the export of live lobsters was found to be satisfactory, but deficiencies were noted in the control system for smoked fishery products intended for export to the Union. In view of those deficiencies, Togo was included in the list set out in Annex II to Decision 2006/766/EC, as amended by Commission Decision 2009/951/EU ⁽⁴⁾, together with an indication that only imports of live lobsters are permitted into the Union from that third country.

⁽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 328, 15.12.2009, p. 70.

- (7) The deficiencies identified during the Commission inspection visit to Togo were subsequently addressed. Control systems were established to conduct microbial and chemical analyses of smoked fishery products. Analytical reports and other information submitted by the competent authority provide sufficient guarantees to ensure adequate consumer health protection for all fishery products for human consumption, other than live, chilled, frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods, exported from Togo to the Union.
- (8) Following an internal reform in the Kingdom of the Netherlands, effective as of 10 October 2010, the Netherlands Antilles ceased to exist as an autonomous country within that Kingdom. On that same date, Curaçao and Sint Maarten gained the status of autonomous countries within the Kingdom of the Netherlands, while Bonaire, Sint Eustatius and Saba became special municipalities of the European part of the Kingdom of the Netherlands.
- (9) Bonaire, Sint Eustatius and Saba remain nevertheless included in the list of overseas countries and territories set out in Annex II to the Treaty on the Functioning of the European Union. Thus they are overseas countries and territories to which the provisions of part four of the Treaty apply.
- (10) Being part of the European part of the Kingdom of the Netherlands, the implementation of the Treaties for those territories is ensured by the Netherlands and the tasks of the competent authority for sanitary matters in those special municipalities are carried out by the competent authorities of the Netherlands. The competent authorities of the Netherlands have presented the necessary information to the Commission to prove that the sanitary control system in place in Bonaire, Sint Eustatius and Saba provides sufficient guarantees of compliance with Union requirements. The information provided also shows that those authorities have the same legal powers to conduct controls as the competent authority of the Netherlands Antilles used to have and that food business operators are bound by the same obligations. In addition, according to that information, the official sanitary controls in those special municipalities continue at the same levels as in the period before the Netherlands Antilles ceased to exist.

- (11) Decision 2006/766/EC should therefore be amended accordingly.
- (12) 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) in Annex I, the following entry is inserted between the entries for Greenland and Jamaica:

'HR	CROATIA	Only applicable until this Acceding State becomes a Member State of the Union.'
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- (2) Annex II is amended as follows:

- (a) the following entry is inserted between the entries for Benin and Brazil:

'BN	BRUNEI	Only aquaculture products.'
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- (b) the following entry is inserted between the entries for Brazil and The Bahamas:

'BQ	BONAIRE, SINT EUSTATIUS, SABA'	
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- (c) the entry for Togo is replaced by the following:

'TG	TOGO'	
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Article 2

This Decision is addressed to the Member States.

Done at Brussels, 6 November 2012.

For the Commission

Maroš ŠEFČOVIČ

Vice-President