

# COMMISSION

## COMMISSION DECISION

of 26 January 2005

### **imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran**

(notified under document number C(2005) 117)

(Text with EEA relevance)

(2005/85/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs<sup>(4)</sup>. This Regulation does no longer contain the legal basis for a safeguard measure.

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<sup>(1)</sup>, and in particular Article 53 (1)(b) thereof,

(3) Regulation (EC) No 178/2002 provides that where it is evident that food or feed originating in the Community or imported from a third country is likely to constitute a serious risk to human health, animal health and the environment, measures are to be adopted.

Whereas:

(1) Commission Decision 97/830/EC of 11 December 1997 repealing Commission Decision 97/613/EC and imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran<sup>(2)</sup> has been substantially amended several times.

(4) Pistachios originating in, or consigned from Iran have been found, in many cases, to be contaminated with excessive levels of Aflatoxin B1.

(2) The legal basis for Decision 97/830/EC is Article 10 of the Council Directive 93/43/EC of 14 June 1993 on the hygiene of foodstuffs<sup>(3)</sup>. Directive 93/43/EEC will be repealed as from 1 January 2006 by Regulation (EC)

(5) The Scientific Committee for Food has noted that Aflatoxin B1 is a potent genotoxic carcinogen and, even at extremely low doses, contributes to the risk of liver cancer.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1. Regulation as amended by Regulation (EC) No 1642/2003 (OJ L 245, 29.9.2003, p. 4).

<sup>(2)</sup> OJ L 343, 13.12.1997, p. 30. Decision as last amended by Decision 2004/429/EC (OJ L 154, 30.4.2004, p. 19. Corrigendum published in OJ L 189, 27.5.2004, p. 13).

<sup>(3)</sup> OJ L 175, 19.7.1993, p. 1. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(6) The import of pistachios from Iran therefore constitutes a serious threat to public health within the Community and it is imperative to adopt protective measures at Community level.

<sup>(4)</sup> OJ L 139, 30.4.2004, p.1. Corrigendum published in OJ L 226, 25.6.2004, p. 3.

- (7) An examination of conditions of hygiene in Iran was undertaken by the Commission's Food and Veterinary Office (FVO) for the first time in 1997 and revealed that improvements in hygiene practices and the traceability of pistachios were required. The mission team was unable to check all stages of the handling of pistachios prior to exportation. Commitments were received from the Iranian authorities in particular in relation to improvements in production, handling, sorting, processing, packaging and transport practices. It was therefore appropriate to subject pistachios and certain pistachio products from Iran to special conditions to provide a high level of protection to public health. Follow up missions have been organised in 1998 and 2001. Although during these missions substantial improvements in hygiene practices and the traceability have been observed, there is a continued need imposing special conditions on pistachios and certain pistachio products from Iran to protect public health.
- (8) Pistachios and certain pistachio products from Iran may be imported, provided that special conditions are applied.
- (9) One of those conditions is that it is necessary to provide that pistachios and products derived from pistachios have been produced, sorted, handled, processed, packaged and transported following good hygienic practices. It is necessary to establish the levels of Aflatoxin B1 and total Aflatoxin in samples taken from the consignment immediately prior to leaving Iran.
- (10) It is furthermore necessary for documentary evidence to be provided by the Iranian authorities to accompany each consignment of pistachios originating in, or consigned from Iran, relating to the conditions of production, sorting, handling, processing, packaging and transport and the results of laboratory analysis of the consignment for levels of Aflatoxin B1 and total Aflatoxin.
- (11) In the interests of public health, Member States will keep the Commission informed through periodical reports of all analytical results of official controls carried out in respect of consignments of pistachios and certain pistachio products from Iran. Such reports shall be in addition to the notification obligations under the Rapid Alert System for Food and Feed (RASFF) established by Regulation (EC) No 178/2002.
- (12) It is important to ensure that the sampling and analysis of consignments of pistachios and pistachio products from Iran are performed in a harmonised manner throughout the Community.
- (13) Checks carried out in 2003 and 2004 revealed that a large number of consignments of pistachios from Iran exceeded the maximum level of aflatoxins. It is therefore necessary to restrict the validity of the health certificate in order to limit the duration of transport and storage, when aflatoxins can be formed.
- (14) The operation of this Decision should be kept under review in the light of information and guarantees provided by the competent authorities of Iran and of the results of the tests carried out by Member States in order to assess whether the special conditions provide a sufficient level of protection of public health within the Community and whether they are still needed.
- (15) The measures provided for in this Decision have a significant impact on the control resources of the Member States. It is therefore appropriate to require that all costs resulting from sampling, analysis, storage and all costs resulting from official measures taken as regards non-compliant consignments are to be borne by the importers or food business operators concerned.
- (16) Decision 97/830/EC should accordingly be repealed.
- (17) 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*
1. Member States may import
- pistachios falling within CN code 0802 50 00, and
- roasted pistachios falling within CN codes 2008 19 13 and 2008 19 93,
- originating in, or consigned from Iran, only where the consignment is accompanied by the results of official sampling and analysis, and the health certificate in Annex I, completed, signed and verified by a representative of the Iranian Ministry of Health. The health certificate shall be valid for import carried out no more than four months after the issue date of the health certificate.
2. Products covered by paragraph 1 may only be imported into the Community through one of the points of entry listed in Annex II.
3. Each consignment of products covered by paragraph 1 shall be identified with a code which corresponds to the code on the sampling results of the official sampling and analysis and health certificate referred to in paragraph 1.

4. The competent authorities in each Member State shall ensure that products covered by paragraph 1 are subject to documentary checks to ensure that the requirement for the health certificate and sampling results referred to in paragraph 1, are complied with.

5. The competent authorities in each Member State shall take a sample for analysis from each consignment of products covered by paragraph 1 for analysis of aflatoxin B1 and total aflatoxin before release onto the market from the point of entry into the Community.

Member States shall submit to the Commission every three months a report of all analytical results of official controls on consignments of products covered by paragraph 1. This report shall be submitted during the month following each quarter (April, July, October, and January).

6. Any consignment which is to be subjected to sampling and analysis should be held before release onto the market from the point of entry into the Community for a maximum period of 15 working days. The competent authorities of the importing Member State shall issue an accompanying official document establishing that the consignment has been subjected to official sampling and analysis and indicating the result of the analysis.

7. If a consignment is split, copies of the health certificate and accompanying official documents referred to in paragraphs 1 and 6 and certified by the competent authority of the Member State on whose territory the splitting has taken place, shall accompany each part of the split consignment up to and including the wholesale stage.

#### *Article 2*

This Decision shall be kept under review in the light of information and guarantees provided by the competent authorities of Iran and of the results of the tests carried out by Member States in order to assess whether the special conditions set out in Article 1 provide a sufficient level of protection of public health within the Community and whether they are still necessary.

#### *Article 3*

All costs resulting from sampling, analysis, storage and issuing of accompanying official document and of copies of health certificate and accompanying documents pursuant to Article 1(4) to (7) shall be borne by the food business operator responsible for the consignment or its representative.

Also all costs related to official measures taken by the competent authorities as regards non-compliant consignments of pistachios and certain products derived from pistachios originating in or consigned from Iran shall be borne by the food business operator responsible for the consignment or its representative.

#### *Article 4*

Decision 97/830/EC is repealed.

#### *Article 5*

The Decision shall apply from 1 February 2005.

Member States shall take the measures necessary to comply with this Decision. They shall immediately inform the Commission thereof.

#### *Article 6*

This Decision is addressed to the Member States.

Done at Brussels, 26 January 2005.

*For the Commission*  
Markos KYPRIANOU  
*Member of the Commission*

ANNEX I

**Health Certificate for the importation into the European Community of pistachios and certain products derived from pistachios originating in, or consigned from Iran**

Consignment Code ..... Certificate No .....

According to the provisions of European Commission Decision 2004/.../EC imposing special conditions on the import of pistachios falling within CN code 0802 50 00 and roasted pistachios falling within CN codes 2008 19 13 and 2008 19 93 originating in or consigned from the Republic of Iran.

the .....  
*(Health authority under direct control of Ministry of Health, Islamic Republic of Iran)*

CERTIFIES:

that the pistachios of this consignment, Code No ..... (Insert Consignment Code No) composed of:

.....  
.....  
*(description of consignment, product, number and type of packages, gross or net weight)*

embarked at .....  
*(embarkation place)*

by .....  
*(identification of transporter)*

going to .....  
*(place and country of destination)*

which comes from the establishment  
.....  
.....  
*(name and address of establishment)*

have been produced, sorted, handled, processed, packaged and transported in line with good hygiene practices.

From this consignment, ..... *(number of samples)* samples of pistachios were taken on ..... *(date)*, subjected to laboratory analysis on ..... *(date)* in the ..... *(name of laboratory)*, laboratory of the Ministry of Health, Islamic Republic of Iran, to determine the level of aflatoxin B1 and level of total aflatoxin contamination, and the details of sampling, methods of analysis used and all results are attached.

Done at ..... on .....

Stamp and signature of  
Representative of the Ministry of Health, Islamic Republic of Iran

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## ANNEX II

**List of points of entry through which pistachios and certain products derived from pistachios originating in or consigned from Iran may be imported into the Community**

Member State	Point of entry
Belgium	Antwerpen, Zeebrugge, Brussel/Bruxelles, Aalst
Czech Republic	Celní úřad Praha D5
Denmark	All Danish harbours and airports
Germany	HZA Lörrach — ZA Weil am Rhein — Autobahn, HZA Stuttgart — ZA Flughafen, HZA München — ZA München — Flughafen, Bezirksamt Reinickendorf von Berlin, Abteilung Finanzen, Wirtschaft und Kultur, Veterinär- und Lebensmittelaufsichtsamt, Grenzkontrollstelle, HZA Frankfurt (Oder) — ZA Autobahn, HZA Cottbus — ZA Forst — Autobahn, HZA Bremen — ZA Neustädter Hafen, HZA Bremen — ZA Bremerhaven, HZA Hamburg — Hafen — ZA Waltershof, HZA Hamburg-Stadt, HZA Itzehoe — ZA Hamburg — Flughafen, HZA Frankfurt-am-Main-Flughafen, HZA Braunschweig — Abfertigungsstelle, HZA Hannover Hamburger Allee, HZA Koblenz — ZA Hahn-Flughafen, HZA Oldenburg — ZA Wilhelmshaven, HZA Bielefeld — ZA Eckendorfer Straße Bielefeld, HZA Erfurt — ZA Eisenach, HZA Potsdam — ZA Ludwigsfelde, HZA Potsdam — ZA Berlin-Flughafen Schönefeld, HZA Augsburg — ZA Memmingen, HZA Ulm — ZA Ulm (Donautal), HZA Karlsruhe — ZA Karlsruhe, HZA Berlin — ZA Dreilinden, HZA Gießen — ZA Gießen, HZA Gießen — ZA Marburg, HZA Singen — ZA Bahnhof, HZA Lörrach — ZA Weil am Rhein — Schusterinsel, HZA Hamburg-Stadt — ZA Oberelbe, HZA Hamburg-Stadt — ZA Oberelbe — Abfertigungsstelle Billbrook, HZA Hamburg-Stadt — ZA Oberelbe — Abfertigungsstelle Großmarkt, HZA Potsdam — ZA Berlin — Flughafen Schönefeld, HZA Düsseldorf — ZA Düsseldorf Nord, HZA Stralsund (HZA HST) — ZA Ludwigslust (ZA LWL)
Estonia	Muuga port BIP, Paljassaare port BIP, Paldiski-Lõuna port BIP, Dirhami port BIP, Luhamaa road BIP, Narva road BIP
Greece	Athina, Pireas, Elefsis, Aerodromio ton Athinon, Thessaloniki, Volos, Patra, Iraklion tis Kritis, Aerodromio tis Kritis, Euzoni, Idomeni, Ormenio, Kipi, Kakavia, Niki, Promahonas, Pithio, Igoumenitsa, Kristalopigi
Spain	Algeciras (Puerto), Alicante (Aeropuerto, Puerto), Almeria (Aeropuerto, Puerto), Asturias (Aeropuerto), Barcelona (Aeropuerto, Puerto, Ferrocarril), Bilbao (Aeropuerto, Puerto), Cadiz (Puerto), Cartagena (Puerto), Castellon (Puerto), Ceuta (Puerto), Gijón (Puerto), Huelva (Puerto), Irun (Carretera), La Coruña (Puerto), La Junquera (Carretera) Las Palmas de Gran Canaria (Aeropuerto, Puerto), Madrid (Aeropuerto, Ferrocarril), Malaga (Aeropuerto, Puerto), Marin (Puerto), Melilla (Puerto), Murcia (Ferrocarril), Palma de Mallorca (Aeropuerto, Puerto), Pasajes (Puerto), San Sebastián (Aeropuerto), Santa Cruz de Tenerife (Puerto), Santander (Aeropuerto, Puerto), Santiago de Compostela (Aeropuerto), Sevilla (Aeropuerto, Puerto), Tarragona (Puerto), Tenerife Norte (Aeropuerto), Tenerife Sur (Aeropuerto), Valencia (Aeropuerto, Puerto), Vigo (Aeropuerto, Puerto), Villagarcía (Puerto), Vitoria (Aeropuerto), Zaragoza (Aeropuerto)
France	Marseille (Bouches-du-Rhone), Le Havre (Seine-Maritime), Rungis MIN (Val-de-Marne), Lyon Chassieu CRD (Rhône), Strasbourg CRD (Bas-Rhin), Lille CRD (Nord), Saint-Nazaire Montoir CRD (Loire-Atlantique), Agen (Lot-et-Garonne), Port de la Pointe des Galets à la Réunion
Ireland	Dublin — Port and Airport, Cork — Port and Airport, Shannon — Airport
Italy	Ufficio Sanità Marittima ed Aerea di Ancona Ufficio Sanità Marittima ed Aerea di Bari Ufficio Sanità Marittima ed Aerea di Genova Ufficio Sanità Marittima di Livorno Ufficio Sanità Marittima ed Aerea di Napoli Ufficio Sanità Marittima di Ravenna Ufficio Sanità Marittima di Salerno Ufficio Sanità Marittima ed Aerea di Trieste Dogana di Ferneti — Interporto Monrupino (Trieste) Ufficio di Sanità Marittima di La Spezia Ufficio di Sanità Marittima e Aerea di Venezia Ufficio di Sanità Marittima e Aerea di Reggio Calabria

Member State	Point of entry
Cyprus	Limassol Port, Larnaca Airport
Latvia	Grebneva — road with Russia Terehova — road with Russia Pätarnieki — road with Byelorussia Silene — road with Byelorussia Daugavpils — railway commodity station Rēzekne — railway commodity station Liepāja — sea port Ventspils — sea port Rīga — sea port Rīga — airport Rīga Rīga — Latvian Post
Lithuania	Road: Kybartai, Lavoriškės, Medininkai, Panemunė, Šalčininkai Airport: Vilnius Seaport: Malkų įlankos, Molo, Pilies Railway: Kena, Kybartai, Pagėgiai
Luxembourg	Centre Douanier, Croix de Gasperich, Luxembourg Administration des Douanes et Accises, Bureau Luxembourg — Aéroport, Niederanven
Hungary	Ferihegy — Budapest — airport Záhony — Szabolcs-Szatmár-Bereg — road Eperjeske — Szabolcs-Szatmár-Bereg — railway Nagylak — Csongrád — road Lökösháza — Békés — railway Röszke — Csongrád — road Kelebia — Bács-Kiskun — railway Letenye — Zala — road Gyékényes — Somogy — railway Mohács — Baranya — port
Malta	Malta Freeport, the Malta International Airport and the Grand Harbour
Netherlands	All harbours and airports and all border stations
Austria	HZA Feldkirch, HZA Graz, Nickelsdorf, Spielfeld, HZA Wien, ZA Wels, ZA Kledering, ZA Flughafen Wien, HZA Salzburg, ZA Klagenfurt/Zweigstelle Sopron, ZA Karawankentunnel, ZA Villach
Poland	Bezledy — Warmińsko — Mazurskie — road border point Kuźnica Białostocka — Podlaskie — road border point Bobrowniki — Podlaskie — road border point Koroszczyn — Lubelskie — road border point Dorohusk — Lubelskie — road and railway border point Gdynia — Pomorskie — seaport border point Gdańsk — Pomorskie — seaport border point Medyka-Przemyśl — Podkarpackie — railway border point Medyka — Podkarpackie — road border point Korcowa — Podkarpackie — road border point Jasionka — Podkarpackie — airport border point Szczecin — Zachodnio — Pomorskie — seaport border point Świnoujście — Zachodnio — Pomorskie — seaport border point Kołobrzeg — Zachodnio — Pomorskie — seaport border point
Portugal	Lisboa, Leixões
Slovenia	Obrežje — road border crossing Koper — port border crossing Dobova — railway border crossing Brnik (airport) Jelšane (road) Ljubljana (railway and road) Sežana (railway and road)

Member State	Point of entry
Slovakia	Vyšné Nemecké — road, Čierna nad Tisou — railway
Finland	All Finnish Customs Offices
Sweden	Göteborg, Stockholm, Helsingborg, Landvetter, Arlanda, Norrköping
United Kingdom	Belfast, Dover, Felixstowe, Gatwick Airport, Goole, Grimsby, Harwich, Heathrow Airport, Hull, Immingham, Ipswich, Leith, Liverpool, London (including Tilbury, Thamesport and Sheerness), Manchester Airport, Manchester Containerbase, Manchester International Freight Terminal, Manchester (including Ellesmere Port), Middlesbrough, Southampton