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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1879/2006

of 19 December 2006

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 20 December 2006.

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

Done at Brussels, 19 December 2006.

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 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 19 December 2006 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	052	89,8
	204	80,1
	999	85,0
0707 00 05	052	116,3
	204	51,8
	628	155,5
	999	107,9
0709 90 70	052	131,1
	204	61,3
	999	96,2
0805 10 20	052	63,2
	388	72,9
	999	68,1
0805 20 10	052	30,7
	204	61,3
	999	46,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	69,0
	624	69,1
	999	69,1
0805 50 10	052	45,9
	528	35,7
	999	40,8
0808 10 80	388	107,5
	400	95,0
	404	94,2
	512	57,4
	720	76,0
	999	86,0
0808 20 50	052	63,8
	400	101,6
	720	50,2
	999	71,9

(1) Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1880/2006

of 14 December 2006

establishing a prohibition of fishing for Greenland halibut in ICES zone NAFO 3LMNO by vessels flying the flag of Portugal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2006.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2006.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2006 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the 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.

Done at Brussels, 14 December 2006.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p. 59.
[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.05.2005, p. 1).
[3] OJ L 16, 20.1.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1642/2006 (OJ L 308, 8.11.2006, p. 5).

ANNEX

No	62
Member State	Portugal
Stock	GHL/N3LMNO.
Species	Greenland halibut (*Reinhardtius hippoglossoides*)
Zone	NAFO 3LMNO
Date	24 November 2006 — 12.00 hours UTC

COMMISSION REGULATION (EC) No 1881/2006

of 19 December 2006

setting maximum levels for certain contaminants in foodstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food [1], and in particular Article 2(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs [2] has been amended substantially many times. It is necessary to amend again maximum levels for certain contaminants to take into account new information and developments in Codex Alimentarius. At the same time, the text should, where appropriate, be clarified. Regulation (EC) No 466/2001 should therefore be replaced.

(2) It is essential, in order to protect public health, to keep contaminants at levels which are toxicologically acceptable.

(3) In view of disparities between the laws of Member States and the consequent risk of distortion of competition, for some contaminants Community measures are necessary in order to ensure market unity while abiding by the principle of proportionality.

(4) Maximum levels should be set at a strict level which is reasonably achievable by following good agricultural, fishery and manufacturing practices and taking into account the risk related to the consumption of the food. In the case of contaminants which are considered to be genotoxic carcinogens or in cases where current exposure of the population or of vulnerable groups in the population is close to or exceeds the tolerable intake, maximum levels should be set at a level which is as low as reasonably achievable (ALARA). Such approaches ensure that food business operators apply measures to prevent and reduce the contamination as far as possible in order to protect public health. It is furthermore appropriate for the health protection of infants and young children, a vulnerable group, to establish the lowest maximum levels, which are achievable through a strict selection of the raw materials used for the manufacturing of foods for infants and young children. This strict selection of the raw materials is also appropriate for the production of some specific foodstuffs such as bran for direct human consumption.

(5) To allow maximum levels to be applied to dried, diluted, processed and compound foodstuffs, where no specific Community maximum levels have been established, food business operators should provide the specific concentration and dilution factors accompanied by the appropriate experimental data justifying the factor proposed.

(6) To ensure an efficient protection of public health, products containing contaminants exceeding the maximum levels should not be placed on the market either as such, after mixture with other foodstuffs or used as an ingredient in other foods.

(7) It is recognised that sorting or other physical treatments make it possible to reduce the aflatoxin content of consignments of groundnuts, nuts, dried fruit and maize. In order to minimise the effects on trade, it is appropriate to allow higher aflatoxin contents for those products which are not intended for direct human consumption or as an ingredient in foodstuffs. In these cases, the maximum levels for aflatoxins should be fixed taking into consideration the effectiveness of the above-mentioned treatments to reduce the aflatoxin content in groundnuts, nuts, dried fruit and maize to levels below the maximum limits fixed for those products intended for direct human consumption or use as an ingredient in foodstuffs.

(8) To enable effective enforcement of the maximum levels for certain contaminants in certain foodstuffs, it is appropriate to provide for suitable labelling provisions for these cases.

[1] OJ L 37, 13.2.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

[2] OJ L 77, 16.3.2001, p. 1. Regulation as last amended by Regulation (EC) No 199/2006 (OJ L 32, 4.2.2006, p. 32).

(9) Because of the climatic conditions in some Member States, it is difficult to ensure that the maximum levels are not exceeded for fresh lettuce and fresh spinach. These Member States should be allowed for a temporary period to continue to authorise the marketing of fresh lettuce and fresh spinach grown and intended for consumption in their territory with nitrate contents exceeding the maximum levels. Lettuce and spinach producers established in the Member States which have given the aforementioned authorisations should progressively modify their farming methods by applying the good agricultural practices recommended at national level.

(10) Certain fish species originating from the Baltic region may contain high levels of dioxins and dioxin-like PCBs. A significant proportion of these fish species from the Baltic region will not comply with the maximum levels and would therefore be excluded from the diet. There are indications that the exclusion of fish from the diet may have a negative health impact in the Baltic region.

(11) Sweden and Finland have a system in place which has the capacity to ensure that consumers are fully informed of the dietary recommendations concerning restrictions on consumption of fish from the Baltic region by identified vulnerable groups of the population in order to avoid potential health risks. Therefore, it is appropriate to grant a derogation to Finland and Sweden to place on the market for a temporary period certain fish species originating in the Baltic region and intended for consumption in their territory with levels of dioxins and dioxin-like PCBs higher than those set in this Regulation. The necessary measures must be implemented to ensure that fish and fish products not complying with the maximum levels are not marketed in other Member States. Finland and Sweden report every year to the Commission the results of their monitoring of the levels of dioxins and dioxin-like PCBs in fish from the Baltic region and the measures to reduce human exposure to dioxins and dioxin-like PCBs from the Baltic region.

(12) To ensure that the maximum levels are enforced in a uniform way, the same sampling criteria and the same analysis performance criteria should be applied by the competent authorities throughout the Community. It is furthermore important that analytical results are reported and interpreted in a uniform way. The measures as regards sampling and analysis specified in this Regulation provide for uniform rules on reporting and interpretation.

(13) For certain contaminants, Member States and interested parties should monitor and report levels, as well report on the progress with regard to application of preventative measures, to allow the Commission to assess the need to modify existing measures or to adopt additional measures.

(14) Any maximum level adopted at Community level can be subject to a review to take account of the advance of scientific and technical knowledge and improvements in good agricultural, fishery and manufacturing practices.

(15) Bran and germ can be marketed for direct human consumption and it is therefore appropriate to establish a maximum level for deoxynivalenol and zearalenone in these commodities.

(16) Codex Alimentarius has recently set a maximum level for lead in fish which the Community accepted. It is therefore appropriate to modify the current provision for lead in fish accordingly.

(17) Regulation (EC) No 853/2004 of the European Parliament and Council of 29 April 2004 laying down specific hygiene rules for food of animal origin [3] defines foodstuffs of animal origin, and consequently the entries as regards foodstuffs of animal origin should be amended in some cases according to the terminology used in that Regulation.

(18) It is necessary to provide that the maximum levels for contaminants do not apply to the foodstuffs which have been lawfully placed on the Community market before the date of application of these maximum levels.

(19) As regards nitrate, vegetables are the major source for the human intake of nitrate. The Scientific Committee on Food (SCF) stated in its opinion of 22 September 1995 [4] that the total intake of nitrate is normally well below the acceptable daily intake (ADI) of 3,65 mg/kg body weight (bw). It recommended, however, continuation of efforts to reduce exposure to nitrate via food and water.

(20) Since climatic conditions have a major influence on the levels of nitrate in certain vegetables such as lettuce and spinach, different maximum nitrate levels should therefore be fixed depending on the season.

[3] OJ L 139, 30.4.2004, p. 55, as corrected by OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Regulation (EC) No 1662/2006 (OJ L 320, 18.11.2006, p. 1).

[4] Reports of the Scientific Committee for Food, 38th series, Opinion of the Scientific Committee for Food on nitrates and nitrite, p. 1, http://ec.europa.eu/food/fs/sc/scf/reports/scf_reports_38.pdf

(21) As regards aflatoxins, the SCF expressed in its opinion of 23 September 1994 that aflatoxins are genotoxic carcinogens ([5]). Based on that opinion, it is appropriate to limit the total aflatoxin content of food (sum of aflatoxins B_1, B_2, G_1 and G_2) as well as the aflatoxin B_1 content alone, aflatoxin B_1 being by far the most toxic compound. For aflatoxin M_1 in foods for infants and young children, a possible reduction of the current maximum level should be considered in the light of developments in analytical procedures.

(22) As regards ochratoxin A (OTA), the SCF adopted a scientific opinion on 17 September 1998 ([6]). An assessment of the dietary intake of OTA by the population of the Community has been performed ([7]) in the framework of Council Directive 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food ([8]) (SCOOP). The European Food Safety Authority (EFSA) has, on a request from the Commission, adopted an updated scientific opinion relating to ochratoxin A in food on 4 April 2006 ([9]), taking into account new scientific information and derived a tolerable weekly intake (TWI) of 120 ng/kg bw.

(23) Based on these opinions, it is appropriate to set maximum levels for cereals, cereal products, dried vine fruit, roasted coffee, wine, grape juice and foods for infants and young children, all of which contribute significantly to general human exposure to OTA or to the exposure of vulnerable groups of consumers such as children.

(24) The appropriateness of setting a maximum level for OTA in foodstuffs such as dried fruit other than dried vine fruit, cocoa and cocoa products, spices, meat products, green coffee, beer and liquorice, as well as a review of the existing maximum levels, in particular for OTA in dried vine fruit and grape juice, will be considered in the light of the recent EFSA scientific opinion.

(25) As regards patulin, the SCF endorsed in its meeting on 8 March 2000 the provisional maximum tolerable daily intake (PMTDI) of 0,4 μg/kg bw for patulin ([10]).

(26) In 2001, a SCOOP-task 'Assessment of the dietary intake of patulin by the population of EU Member States' in the framework of Directive 93/5/EEC was performed ([11]).

(27) Based on that assessment and taking into account the PMTDI, maximum levels should be set for patulin in certain foodstuffs to protect consumers from unacceptable contamination. These maximum levels should be reviewed and, if necessary, reduced taking into account the progress in scientific and technological knowledge and the implementation of Commission Recommendation 2003/598/EC of 11 August 2003 on the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages ([12]).

(28) As regards Fusarium toxins, the SCF has adopted several opinions evaluating deoxynivalenol in December 1999 ([13]) establishing a tolerable daily intake (TDI) of 1 μg/kg bw, zearalenone in June 2000 ([14]) establishing a temporary TDI of 0,2 μg/kg bw, fumonisins in October 2000 ([15]) (updated in April 2003) ([16]) establishing a TDI of 2 μg/kg bw, nivalenol in October 2000 ([17]) establishing a temporary TDI of 0,7 μg/kg bw, T-2 and HT-2 toxin in May 2001 ([18]) establishing a combined temporary TDI of 0,06 μg/kg bw and the trichothecenes as group in February 2002 ([19]).

([5]) Reports of the Scientific Committee for Food, 35th series, Opinion of the Scientific Committee for Food on aflatoxins, ochratoxin A and patulin, p. 45, http://ec.europa.eu/food/fs/sc/scf/reports/scf_reports_35.pdf

([6]) Opinion of the Scientific Committee on Food on Ochratoxin A (expressed on 17 September 1998) http://ec.europa.eu/food/fs/sc/scf/out14_en.html

([7]) Reports on tasks for scientific cooperation, Task 3.2.7 'Assessment of dietary intake of Ochratoxin A by the population of EU Member States'. http://ec.europa.eu/food/food/chemicalsafety/contaminants/task_3-2-7_en.pdf

([8]) OJ L 52, 4.3.1993, p. 18.

([9]) Opinion of the Scientific Panel on contaminants in the Food Chain of the EFSA on a request from the Commission related to ochratoxin A in food. http://www.efsa.europa.eu/etc/medialib/efsa/science/contam/contam_opinions/1521.Par.0001.File.dat/contam_op_ej365_ochratoxin_a_food_en1.pdf

([10]) Minutes of the 120th Meeting of the Scientific Committee on Food held on 8 and 9 March 2000 in Brussels, Minute statement on patulin. http://ec.europa.eu/food/fs/sc/scf/out55_en.pdf

([11]) Reports on tasks for scientific cooperation, Task 3.2.8, 'Assessment of dietary intake of Patulin by the population of EU Member States'. http://ec.europa.eu/food/food/chemicalsafety/contaminants/3.2.8_en.pdf

([12]) OJ L 203, 12.8.2003, p. 34.

([13]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 1: Deoxynivalenol (DON), (expressed on 2 December 1999) http://ec.europa.eu/food/fs/sc/scf/out44_en.pdf

([14]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 2: Zearalenone (ZEA), (expressed on 22 June 2000) http://ec.europa.eu/food/fs/sc/scf/out65_en.pdf

([15]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 3: Fumonisin B_1 (FB_1) (expressed on 17 October 2000) http://ec.europa.eu/food/fs/sc/scf/out73_en.pdf

([16]) Updated opinion of the Scientific Committee on Food on Fumonisin B_1, B_2 and B_3 (expressed on 4 April 2003) http://ec.europa.eu/food/fs/sc/scf/out185_en.pdf

([17]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 4: Nivalenol (expressed on 19 October 2000) http://ec.europa.eu/food/fs/sc/scf/out74_en.pdf

([18]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 5: T-2 toxin and HT-2 toxin (adopted on 30 May 2001) http://ec.europa.eu/food/fs/sc/scf/out88_en.pdf

([19]) Opinion of the Scientific Committee on Food on Fusarium-toxins Part 6: Group evaluation of T-2 toxin, HT-2toxin, nivalenol and deoxynivalenol. (adopted on 26 February 2002) http://ec.europa.eu/food/fs/sc/scf/out123_en.pdf

(29) In the framework of Directive 93/5/EEC the SCOOP-task 'Collection of occurrence data on Fusarium toxins in food and assessment of dietary intake by the population of EU Member States' was performed and finalised in September 2003 ([20]).

(30) Based on the scientific opinions and the assessment of the dietary intake, it is appropriate to set maximum levels for deoxynivalenol, zearalenone and fumonisins. As regards fumonisins, monitoring control results of the recent harvests indicate that maize and maize products can be very highly contaminated by fumonisins and it is appropriate that measures are taken to avoid such unacceptably highly contaminated maize and maize products can enter the food chain.

(31) Intake estimates indicate that the presence of T-2 and HT-2 toxin can be of concern for public health. Therefore, the development of a reliable and sensitive method, collection of more occurrence data and more investigations/research in the factors involved in the presence of T-2 and HT-2 toxin in cereals and cereal products, in particular in oats and oat products, is necessary and of high priority.

(32) It is not necessary due to co-occurrence to consider specific measures for 3-acetyl deoxynivalenol, 15-acetyl deoxynivalenol and fumonisin B_3, as measures with regard to in particular deoxynivalenol and fumonisin B_1 and B_2 would also protect the human population from an unacceptable exposure from 3-acetyl deoxynivalenol, 15-acetyl deoxynivalenol and fumonisin B_3. The same applies to nivalenol for which to a certain degree co-occurrence with deoxynivalenol can be observed. Furthermore, human exposure to nivalenol is estimated to be significantly below the t-TDI. As regards other trichothecenes considered in the abovementioned SCOOP-task, such as 3-acetyldeoxynivalenol, 15-acetyl-deoxynivalenol, fusarenon-X, T2-triol, diacetoxyscirpenol, neosolaniol, monoacetoxyscirpenol and verrucol, the limited information available indicates that they do not occur widely and the levels found are generally low.

(33) Climatic conditions during the growth, in particular at flowering, have a major influence on the Fusarium toxin content. However, good agricultural practices, whereby the risk factors are reduced to a minimum, can prevent to a certain degree the contamination by *Fusarium* fungi. Commission Recommendation 2006/583/EC of 17 August 2006 on the prevention and reduction of Fusarium toxins in cereals and cereal products ([21]) contains general principles for the prevention and reduction of Fusarium toxin contamination (zearalenone, fumonisins and trichothecenes) in cereals to be implemented by the development of national codes of practice based on these principles.

(34) Maximum levels of Fusarium toxins should be set for unprocessed cereals placed on the market for first-stage processing. Cleaning, sorting and drying procedures are not considered as first-stage processing insofar as no physical action is exerted on the grain kernel itself. Scouring is to be considered as first-stage processing.

(35) Since the degree to which Fusarium toxins in unprocessed cereals are removed by cleaning and processing may vary, it is appropriate to set maximum levels for final consumer cereal products as well as for major food ingredients derived from cereals to have enforceable legislation in the interest of ensuring public health protection.

(36) For maize, not all factors involved in the formation of Fusarium toxins, in particular zearalenone and fumonisins B_1 and B_2, are yet precisely known. Therefore, a time period is granted to enable food business operators in the cereal chain to perform investigations on the sources of the formation of these mycotoxins and on the identification of the management measures to be taken to prevent their presence as far as reasonably possible. Maximum levels based on currently available occurrence data are proposed to apply from 2007 in case no specific maximum levels based on new information on occurrence and formation are set before that time.

(37) Given the low contamination levels of Fusarium toxins found in rice, no maximum levels are proposed for rice or rice products.

(38) A review of the maximum levels for deoxynivalenol, zearalenone, fumonisin B_1 and B_2 as well as the appropriateness of setting a maximum level for T-2 and HT-2 toxin in cereals and cereal products should be considered by 1 July 2008, taking into account the progress in scientific and technological knowledge on these toxins in food.

(39) As regards lead, the SCF adopted an opinion on 19 June 1992 ([22]) endorsing the provisional tolerable weekly intake (PTWI) of 25 µg/kg bw proposed by the WHO in 1986. The SCF concluded in its opinion that the mean level in foodstuffs does not seem to be a cause of immediate concern.

([20]) Reports on tasks for scientific cooperation, Task 3.2.10 'Collection of occurrence data of Fusarium toxins in food and assessment of dietary intake by the population of EU Member States'. http://ec.europa.eu/food/fs/scoop/task3210.pdf

([21]) OJ L 234, 29.8.2006, p. 35.

([22]) Reports of the Scientific Committee for Food, 32nd series, Opinion of the Scientific Committee for Food on 'The potential risk to health presented by lead in food and drink', p. 7, http://ec.europa.eu/food/fs/sc/scf/reports/scf_reports_32.pdf

(40) In the framework of Directive 93/5/EEC 2004 the SCOOP-task 3.2.11 'Assessment of the dietary exposure to arsenic, cadmium, lead and mercury of the population of the EU Member States' was performed in 2004 ([23]). In view of this assessment and the opinion delivered by the SCF, it is appropriate to take measures to reduce the presence of lead in food as much as possible

(41) As regards cadmium, the SCF endorsed in its opinion of 2 June 1995 ([24]) the PTWI of 7 µg/kg bw and recommended greater efforts to reduce dietary exposure to cadmium since foodstuffs are the main source of human intake of cadmium. A dietary exposure assessment was performed in the SCOOP-task 3.2.11. In view of this assessment and the opinion delivered by the SCF, it is appropriate to take measures to reduce the presence of cadmium in food as much as possible.

(42) As regards mercury EFSA adopted on 24 February 2004 an opinion related to mercury and methylmercury in food ([25]) and endorsed the provisional tolerable weekly intake of 1,6 µg/kg bw. Methylmercury is the chemical form of most concern and can make up more than 90 % of the total mercury in fish and seafood. Taking into account the outcome of the SCOOP-task 3.2.11, EFSA concluded that the levels of mercury found in foods, other than fish and seafood, were of lower concern. The forms of mercury present in these other foods are mainly not methylmercury and they are therefore considered to be of lower risk.

(43) In addition to the setting of maximum levels, targeted consumer advice is an appropriate approach in the case of methylmercury for protecting vulnerable groups of the population. An information note on methylmercury in fish and fishery products responding to this need has therefore been made available on the website of the Health and Consumer Protection Directorate-General of the European Commission ([26]). Several Member States have also issued advice on this issue that is relevant to their population.

(44) As regards inorganic tin, the SCF concluded in its opinion of 12 December 2001 ([27]) that levels of inorganic tin of 150 mg/kg in canned beverages and 250 mg/kg in other canned foods may cause gastric irritation in some individuals.

(45) To protect public health from this health risk it is necessary to set maximum levels for inorganic tin in canned foods and canned beverages. Until data becomes available on the sensitivity of infants and young children to inorganic tin in foods, it is necessary on a precautionary basis to protect the health of this vulnerable population group and to establish lower maximum levels.

(46) As regards 3-monochloropropane-1,2-diol (3-MCPD) the SCF adopted on 30 May 2001 a scientific opinion as regards 3-MCPD in food ([28]), updating its opinion of 16 December 1994 ([29]) on the basis of new scientific information and established a tolerable daily intake (TDI) of 2 µg/kg bw for 3-MCPD.

(47) In the framework of Directive 93/5/EEC the SCOOP-task 'Collection and collation of data on levels of 3-MCPD and related substances in foodstuffs' was performed and finalised in June 2004 ([30]). The main contributors of 3-MCPD to dietary intake were soy sauce and soy-sauce based products. Some other foods eaten in large quantities, such as bread and noodles, also contributed significantly to intake in some countries because of high consumption rather than high levels of 3-MCPD present in these foods.

(48) Accordingly maximum levels should be set for 3-MCPD in hydrolysed vegetable protein (HVP) and soy sauce taking into account the risk related to the consumption of these foods. Member States are requested to examine other foodstuffs for the occurrence of 3-MCPD in order to consider the need to set maximum levels for additional foodstuffs.

([23]) Reports on tasks for scientific co-operation, Task 3.2.11 'Assessment of dietary exposure to arsenic, cadmium, lead and mercury of the population of the EU Member States'. http://ec.europa.eu/food/food/chemicalsafety/contaminants/scoop_3-2-11_heavy_metals_report_en.pdf

([24]) Reports of the Scientific Committee for Food, 36th series, Opinion of the Scientific Committee for Food on cadmium, p. 67, http://ec.europa.eu/food/fs/sc/scf/reports/scf_reports_36.pdf

([25]) Opinion of the Scientific Panel on contaminants in the Food Chain of the European Food Safety Authority (EFSA) on a request from the Commission related to mercury and methylmercury in food (adopted on 24 February 2004) http://www.efsa.eu.int/science/contam/contam_opinions/259/opinion_contam_01_en1.pdf

([26]) http://ec.europa.eu/food/food/chemicalsafety/contaminants/information_note_mercury-fish_12-05-04.pdf

([27]) Opinion of the Scientific Committee on Food on acute risks posed by tin in canned foods (adopted on 12 December 2001) http://ec.europa.eu/food/fs/sc/scf/out110_en.pdf

([28]) Opinion of the Scientific Committee on Food on 3-monochloropropane-1,2-diol (3-MCPD) updating the SCF opinion of 1994 (adopted on 30 May 2001) http://ec.europa.eu/food/fs/sc/scf/out91_en.pdf

([29]) Reports of the Scientific Committee for Food, 36th series, Opinion of the Scientific Committee for Food on 3-monochloro-propane-1,2-diol 3-MCPD), p. 31, http://ec.europa.eu/food/fs/sc/scf/reports/scf_reports_36.pdf

([30]) Reports on tasks for scientific cooperation, Task 3.2.9 'Collection and collation of data on levels of 3-monochloropropanediol (3-MCPD) and related substances in foodstuffs'. http://ec.europa.eu/food/food/chemicalsafety/contaminants/scoop_3-2-9_final_report_chloropropanols_en.pdf

(49) As regards dioxins and PCBs, the SCF adopted on 30 May 2001 an opinion on dioxins and dioxin-like PCBs in food ([31]), updating its opinion of 22 November 2000 ([32]) fixing a tolerable weekly intake (TWI) of 14 pg World Health Organisation toxic equivalent (WHO-TEQ)/kg bw for dioxins and dioxin-like PCBs.

(50) Dioxins as referred to in this Regulation cover a group of 75 polychlorinated dibenzo-p-dioxin (PCDD) congeners and 135 polychlorinated dibenzofuran (PCDF) congeners, of which 17 are of toxicological concern. Polychlorinated biphenyls (PCBs) are a group of 209 different congeners which can be divided into two groups according to their toxicological properties: 12 congeners exhibit toxicological properties similar to dioxins and are therefore often termed dioxin-like PCBs. The other PCBs do not exhibit dioxin-like toxicity but have a different toxicological profile.

(51) Each congener of dioxins or dioxin-like PCBs exhibits a different level of toxicity. In order to be able to sum up the toxicity of these different congeners, the concept of toxic equivalency factors (TEFs) has been introduced to facilitate risk assessment and regulatory control. This means that the analytical results relating to all the individual dioxin and dioxin-like PCB congeners of toxicological concern are expressed in terms of a quantifiable unit, namely the TCDD toxic equivalent (TEQ).

(52) Exposure estimates taking into account the SCOOP-task 'Assessment of dietary intake of dioxins and related PCBs by the population of EU Member States' finalised in June 2000 ([33]) indicate that a considerable proportion of the Community population has a dietary intake in excess of the TWI.

(53) From a toxicological point of view, any level set should apply to both dioxins and dioxin-like PCBs, but in 2001 maximum levels were set on Community level only for dioxins and not for dioxin-like PCBs, given the very limited data available at that time on the prevalence of dioxin-like PCBs. Since 2001, however, more data on the presence of dioxin-like PCBs have become available, therefore, maximum levels for the sum of dioxins and dioxin-like PCBs have been set in 2006 as this is the most appropriate approach from a toxicological point of view. In order to ensure a smooth transition, the levels for dioxins should continue to apply for a transitional period in addition to the levels for the sum of dioxins and dioxin-like PCBs. Foodstuffs must comply during that transitional period with the maximum levels for dioxins and with the maximum levels for the sum of dioxins and dioxin-like PCBs. Consideration will be given by 31 December 2008 to dispensing with the separate maximum levels for dioxins.

(54) In order to encourage a proactive approach to reducing the dioxins and dioxin-like PCBs present in food and feed, action levels were set by Commission Recommendation 2006/88/EC of 6 February 2006 on the reduction of the presence of dioxins, furans and PCBs in feedingstuffs and foodstuffs ([34]). These action levels are a tool for competent authorities and operators to highlight those cases where it is appropriate to identify a source of contamination and to take measures to reduce or eliminate it. Since the sources of dioxins and dioxin-like PCBs are different, separate action levels are determined for dioxins on the one hand and for dioxin-like PCBs on the other hand. This proactive approach to actively reduce the dioxins and dioxin-like PCBs in feed and food and consequently, the maximum levels applicable should be reviewed within a defined period of time with the objective to set lower levels. Therefore, consideration will be given by 31 December 2008 to significantly reducing the maximum levels for the sum of dioxins and dioxin-like PCBs.

(55) Operators need to make efforts to step up their capacity to remove dioxins, furans and dioxin-like PCBs from marine oil. The significant lower level, to which consideration shall be given by 31 December 2008, shall be based on the technical possibilities of the most effective decontamination procedure.

(56) As regards the establishment of maximum levels for other foodstuffs by 31 December 2008, particular attention shall be paid to the need to set specific lower maximum levels for dioxins and dioxin-like PCBs in foods for infants and young children in the light of the monitoring data obtained through the 2005, 2006 and 2007 programmes for monitoring dioxins and dioxin-like PCBs in foods for infants and young children.

([31]) Opinion of the Scientific Committee on Food on the risk assessment of dioxins and dioxin-like PCBs in food. Update based on new scientific information available since the adoption of the SCF opinion of 22nd November 2000 (adopted on 30 May 2001) http://ec.europa.eu/food/fs/sc/scf/out90_en.pdf

([32]) Opinion of the Scientific Committee on Food on the risk assessment of dioxins and dioxin-like PCBs in food. (adopted on 22 November 2000) http://ec.europa.eu/food/fs/sc/scf/out78_en.pdf

([33]) Reports on tasks for scientific cooperation, Task 3.2.5 'Assessment of dietary intake of dioxins and related PCBs by the population of EU Member States'. http://ec.europa.eu/dgs/health_consumer/library/pub/pub08_en.pdf

([34]) OJ L 42, 14.2.2006, p. 26.

(57) As regards polycyclic aromatic hydrocarbons, the SCF concluded in its opinion of 4 December 2002 ([35]) that a number of polycyclic aromatic hydrocarbons (PAH) are genotoxic carcinogens. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) performed in 2005 a risk assessment on PAHs and estimated margins of exposure (MOE) for PAH as a basis for advice on compounds that are both genotoxic and carcinogenic ([36]).

(58) According to the SCF, benzo(a)pyrene can be used as a marker for the occurrence and effect of carcinogenic PAH in food, including also benz(a)anthracene, benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene, benzo(g,h,i)perylene, chrysene, cyclopenta(c,d)pyrene, dibenz(a,h)anthracene, dibenzo(a,e)pyrene, dibenzo(a,h)-pyrene, dibenzo(a,i)pyrene, dibenzo(a,l)pyrene, indeno(1,2,3-cd)pyrene and 5-methylchrysene. Further analyses of the relative proportions of these PAH in foods would be necessary to inform a future review of the suitability of maintaining benzo(a)pyrene as a marker. In addition benzo(c)fluorene should be analysed, following a recommendation of JECFA.

(59) PAH can contaminate foods during smoking processes and heating and drying processes that allow combustion products to come into direct contact with food. In addition, environmental pollution may cause contamination with PAH, in particular in fish and fishery products.

(60) In the framework of Directive 93/5/EEC, a specific SCOOP-task 'Collection of occurrence data on PAH in food' has been performed in 2004 ([37]). High levels were found in dried fruits, olive pomace oil, smoked fish, grape seed oil, smoked meat products, fresh molluscs, spices/sauces and condiments.

(61) In order to protect public health, maximum levels are necessary for benzo(a)pyrene in certain foods containing fats and oils and in foods where smoking or drying processes might cause high levels of contamination. Maximum levels are also necessary in foods where environmental pollution may cause high levels of contamination, in particular in fish and fishery products, for example resulting from oil spills caused by shipping.

([35]) Opinion of the Scientific Committee on Food on the risks to human health of Polycyclic Aromatic Hydrocarbons in food (expressed on 4 December 2002) http://ec.europa.eu/food/fs/sc/scf/out153_en.pdf

([36]) Evaluation of certain food contaminants — Report of the Joint FAO/WHO Expert Committee on Food Additives), 64th meeting, Rome, 8 to 17 February 2005, p. 1 and p. 61. WHO Technical Report Series, No. 930, 2006 — http://whqlibdoc.who.int/trs/WHO_TRS_930_eng.pdf

([37]) Reports on tasks for scientific co-operation, Task 3.2.12 'Collection of occurrence data on polycyclic aromatic hydrocarbons in food'. http://ec.europa.eu/food/food/chemicalsafety/contaminants/scoop_3-2-12_final_report_pah_en.pdf

(62) In some foods, such as dried fruit and food supplements, benzo(a)pyrene has been found, but available data are inconclusive on what levels are reasonably achievable. Further investigation is needed to clarify the levels that are reasonably achievable in these foods. In the meantime, maximum levels for benzo(a)pyrene in relevant ingredients should apply, such as in oils and fats used in food supplements.

(63) The maximum levels for PAH and the appropriateness of setting a maximum level for PAH in cocoa butter should be reviewed by 1 April 2007, taking into account the progress in scientific and technological knowledge on the occurrence of benzo(a)pyrene and other carcinogenic PAH in food.

(64) 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

General rules

1. The foodstuffs listed in the Annex shall not be placed on the market where they contain a contaminant listed in the Annex at a level exceeding the maximum level set out in the Annex.

2. The maximum levels specified in the Annex shall apply to the edible part of the foodstuffs concerned, unless otherwise specified in the Annex.

Article 2

Dried, diluted, processed and compound foodstuffs

1. When applying the maximum levels set out in the Annex to foodstuffs which are dried, diluted, processed or composed of more than one ingredient, the following shall be taken into account:

(a) changes of the concentration of the contaminant caused by drying or dilution processes;

(b) changes of the concentration of the contaminant caused by processing;

(c) the relative proportions of the ingredients in the product;

(d) the analytical limit of quantification.

2. The specific concentration or dilution factors for the drying, dilution, processing and/or mixing operations concerned or for the dried, diluted, processed and/or compound foodstuffs concerned shall be provided and justified by the food business operator, when the competent authority carries out an official control.

If the food business operator does not provide the necessary concentration or dilution factor or if the competent authority deems that factor inappropriate in view of the justification given, the authority shall itself define that factor, based on the available information and with the objective of maximum protection of human health.

3. Paragraphs 1 and 2 shall apply in so far as no specific Community maximum levels are fixed for these dried, diluted, processed or compound foodstuffs.

4. As far as Community legislation does not provide for specific maximum levels for foods for infants and young children, Member States may provide for stricter levels.

Article 3

Prohibitions on use, mixing and detoxification

1. Foodstuffs not complying with the maximum levels set out in the Annex shall not be used as food ingredients.

2. Foodstuffs complying with the maximum levels set out in the Annex shall not be mixed with foodstuffs which exceed these maximum levels.

3. Foodstuffs to be subjected to sorting or other physical treatment to reduce contamination levels shall not be mixed with foodstuffs intended for direct human consumption or with foodstuffs intended for use as a food ingredient.

4. Foodstuffs containing contaminants listed in section 2 of the Annex (Mycotoxins) shall not be deliberately detoxified by chemical treatments.

Article 4

Specific provisions for groundnuts, nuts, dried fruit and maize

Groundnuts, nuts, dried fruit and maize not complying with the appropriate maximum levels of aflatoxins laid down in points 2.1.3, 2.1.5 and 2.1.6 of the Annex can be placed on the market provided that these foodstuffs:

(a) are not intended for direct human consumption or use as an ingredient in foodstuffs;

(b) comply with the appropriate maximum levels laid down in points 2.1.1, 2.1.2, 2.1.4 and 2.1.7 of the Annex;

(c) are subjected to a treatment involving sorting or other physical treatment and that after this treatment the maximum levels laid down in points 2.1.3, 2.1.5 and 2.1.6 of the Annex are not exceeded, and this treatment does not result in other harmful residues;

(d) are labelled clearly showing their use, and bearing the indication 'product shall be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs'. The indication shall be included on the label of each individual bag, box etc. or on the original accompanying document. The consignment/batch identification code shall be indelibly marked on each individual bag, box etc. of the consignment and on the original accompanying document.

Article 5

Specific provisions for groundnuts, derived products thereof and cereals

A clear indication of the intended use must appear on the label of each individual bag, box, etc. or on the original accompanying document. This accompanying document must have a clear link with the consignment by means of mentioning the consignment identification code, which is on each individual bag, box, etc. of the consignment. In addition the business activity of the consignee of the consignment given on the accompanying document must be compatible with the intended use.

In the absence of a clear indication that their intended use is not for human consumption, the maximum levels laid down in points 2.1.3 and 2.1.6 of the Annex shall apply to all groundnuts, derived products thereof and cereals placed on the market.

Article 6

Specific provisions for lettuce

Unless lettuce grown under cover (protected lettuce) is labelled as such, maximum levels set in the Annex for lettuce grown in the open air (open-grown lettuce) shall apply.

Article 7

Temporary derogations

1. By way of derogation from Article 1, Belgium, Ireland, the Netherlands and the United Kingdom may authorise until 31 December 2008 the placing on the market of fresh spinach grown and intended for consumption in their territory with nitrate levels higher than the maximum levels set out in point 1.1 of the Annex.

2. By way of derogation from Article 1, Ireland and the United Kingdom may authorise until 31 December 2008 the placing on the market of fresh lettuce grown and intended for consumption in their territory and harvested throughout the year with nitrate levels higher than the maximum levels set out in point 1.3 of the Annex.

3. By way of derogation from Article 1, France may authorise until 31 December 2008 the placing on the market of fresh lettuce grown and intended for consumption in its territory and harvested from 1 October to 31 March with nitrate levels higher than the maximum levels set out in point 1.3 of the Annex.

4. By way of derogation from Article 1, Finland and Sweden may authorise until 31 December 2011 the placing on their market of salmon (*Salmo salar*), herring (*Clupea harengus*), river lamprey (*Lampetra fluviatilis*), trout (*Salmo trutta*), char (*Salvelinus* spp.) and roe of vendace (*Coregonus albula*) originating in the Baltic region and intended for consumption in their territory with levels of dioxins and/or levels of the sum of dioxins and dioxin-like PCBs higher than those set out in point 5.3 of the Annex, provided that a system is in place to ensure that consumers are fully informed of the dietary recommendations with regard to the restrictions on the consumption of these fish species from the Baltic region by identified vulnerable sections of the population in order to avoid potential health risks. By 31 March each year, Finland and Sweden shall communicate to the Commission the results of their monitoring of the levels of dioxins and dioxin-like PCBs in fish from the Baltic region obtained in the preceding year and shall report on the measures taken to reduce human exposure to dioxins and dioxin-like PCBs from fish from the Baltic region.

Finland and Sweden shall continue to apply the necessary measures to ensure that fish and fish products not complying with point 5.3 of the Annex are not marketed in other Member States.

Article 8

Sampling and analysis

The sampling and the analysis for the official control of the maximum levels specified in the Annex shall be performed in accordance with Commission Regulations (EC) No 1882/2006 ([38]), No 401/2006 ([39]), No 1883/2006 ([40]) and Commission Directives 2001/22/EC ([41]), 2004/16/EC ([42]) and 2005/10/EC ([43]).

Article 9

Monitoring and reporting

1. Member States shall monitor nitrate levels in vegetables which may contain significant levels, in particular green leaf vegetables, and communicate the results to the Commission by 30 June each year. The Commission will make these results available to the Member States.

2. Member States and interested parties shall communicate each year to the Commission the results of investigations undertaken including occurrence data and the progress with regard to the application of prevention measures to avoid contamination by ochratoxin A, deoxynivalenol, zearalenone, fumonisin B_1 and B_2, T-2 and HT-2 toxin. The Commission will make these results available to the Member States.

3. Member States should report to the Commission findings on aflatoxins, dioxins, dioxin-like PCBs, non-dioxin-like PCBs and polycyclic aromatic hydrocarbons as specified in Commission Decision 2006/504/EC ([44]), Commission Recommendation 2006/794/EC ([45]) and Commission Recommendation 2005/108/EC ([46]).

Article 10

Repeal

Regulation (EC) No 466/2001 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 11

Transitional measures

This Regulation shall not apply to products that were placed on the market before the dates referred to in points (a) to (d) in conformity with the provisions applicable at the respective date:

(a) 1 July 2006 as regards the maximum levels for deoxynivalenol and zearalenone laid down in points 2.4.1, 2.4.2, 2.4.4, 2.4.5, 2.4.6, 2.4.7, 2.5.1, 2.5.3, 2.5.5 and 2.5.7 of the Annex;

([38]) See page 25 of this Official Journal.
([39]) OJ L 70, 9.3.2006, p. 12.
([40]) See page 32 of this Official Journal.
([41]) OJ L 77, 16.3.2001, p. 14. Directive as amended by Directive 2005/4/EC (OJ L 19, 21.1.2005, p. 50).
([42]) OJ L 42, 13.2.2004, p. 16.
([43]) OJ L 34, 8.2.2005, p. 15.
([44]) OJ L 199, 21.7.2006, p. 21.
([45]) OJ L 322, 22.11.2006, p. 24.
([46]) OJ L 34, 8.2.2005, p. 43.

(b) 1 July 2007 as regards the maximum levels for deoxynivalenol and zearalenone laid down in points 2.4.3, 2.5.2, 2.5.4, 2.5.6 and 2.5.8 of the Annex;

(c) 1 October 2007 as regards the maximum levels for fumonisins B_1 and B_2 laid down in point 2.6 of the Annex;

(d) 4 November 2006 as regards the maximum levels for the sum of dioxins and dioxin-like PCBs laid down in section 5 of the Annex.

The burden of proving when the products were placed on the market shall be borne by the food business operator.

Article 12

Entry into force and application

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

It shall apply from 1 March 2007.

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

Done at Brussels, 19 December 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Maximum levels for certain contaminants in foodstuffs [1]

Section 1: Nitrate

	Foodstuffs [1]	Maximum levels (mg NO_3/kg)	
1.1	Fresh spinach (*Spinacia oleracea*) [2]	Harvested 1 October to 31 March	3 000
		Harvested 1 April to 30 September	2 500
1.2	Preserved, deep-frozen or frozen spinach		2 000
1.3	Fresh Lettuce (*Lactuca sativa* L.) (protected and open-grown lettuce) excluding lettuce listed in point 1.4	Harvested 1 October to 31 March:	
		lettuce grown under cover	4 500
		lettuce grown in the open air	4 000
		Harvested 1 April to 30 September:	
		lettuce grown under cover	3 500
		lettuce grown in the open air	2 500
1.4	Iceberg-type lettuce	Lettuce grown under cover	2 500
		Lettuce grown in the open air	2 000
1.5	Processed cereal-based foods and baby foods for infants and young children [3] [4]		200

Section 2: Mycotoxins

	Foodstuffs [1]	Maximum levels (µg/kg)		
2.1	**Aflatoxins**	B_1	Sum of B_1, B_2, G_1 and G_2	M_1
2.1.1	Groundnuts to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	8,0 [5]	15,0 [5]	—
2.1.2	Nuts to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	5,0 [5]	10,0 [5]	—
2.1.3	Groundnuts and nuts and processed products thereof, intended for direct human consumption or use as an ingredient in foodstuffs	2,0 [5]	4,0 [5]	—
2.1.4	Dried fruit to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	5,0	10,0	—
2.1.5	Dried fruit and processed products thereof, intended for direct human consumption or use as an ingredient in foodstuffs	2,0	4,0	—
2.1.6	All cereals and all products derived from cereals, including processed cereal products, with the exception of foodstuffs listed in 2.1.7, 2.1.10 and 2.1.12	2,0	4,0	—
2.1.7	Maize to be subjected to sorting or other physical treatment before human consumption or use as an ingredient in foodstuffs	5,0	10,0	—
2.1.8	Raw milk [6], heat-treated milk and milk for the manufacture of milk-based products	—	—	0,050

	Foodstuffs [1]	Maximum levels (µg/kg)		
2.1.9	Following species of spices: *Capsicum* spp. (dried fruits thereof, whole or ground, including chillies, chilli powder, cayenne and paprika) *Piper* spp. (fruits thereof, including white and black pepper) *Myristica fragrans* (nutmeg) *Zingiber officinale* (ginger) *Curcuma longa* (turmeric)	5,0	10,0	—
2.1.10	Processed cereal-based foods and baby foods for infants and young children [3] [7]	0,10	—	—
2.1.11	Infant formulae and follow-on formulae, including infant milk and follow-on milk [4] [8]	—	—	0,025
2.1.12	Dietary foods for special medical purposes [9] [10] intended specifically for infants	0,10	—	0,025
2.2	**Ochratoxin A**			
2.2.1	Unprocessed cereals	5,0		
2.2.2	All products derived from unprocessed cereals, including processed cereal products and cereals intended for direct human consumption with the exception of foodstuffs listed in 2.2.9 and 2.2.10	3,0		
2.2.3	Dried vine fruit (currants, raisins and sultanas)	10,0		
2.2.4	Roasted coffee beans and ground roasted coffee, excluding soluble coffee	5,0		
2.2.5	Soluble coffee (instant coffee)	10,0		
2.2.6	Wine (including sparkling wine, excluding liqueur wine and wine with an alcoholic strength of not less than 15 % vol) and fruit wine [11]	2,0 [12]		
2.2.7	Aromatised wine, aromatised wine-based drinks and aromatised wine-product cocktails [13]	2,0 [12]		
2.2.8	Grape juice, concentrated grape juice as reconstituted, grape nectar, grape must and concentrated grape must as reconstituted, intended for direct human consumption [14]	2,0 [12]		
2.2.9	Processed cereal-based foods and baby foods for infants and young children [3] [7]	0,50		
2.2.10	Dietary foods for special medical purposes [9] [10] intended specifically for infants	0,50		
2.2.11	Green coffee, dried fruit other than dried vine fruit, beer, cocoa and cocoa products, liqueur wines, meat products, spices and liquorice	—		
2.3	**Patulin**			
2.3.1	Fruit juices, concentrated fruit juices as reconstituted and fruit nectars [14]	50		

	Foodstuffs [1]	Maximum levels (µg/kg)
2.3.2	Spirit drinks [15], cider and other fermented drinks derived from apples or containing apple juice	50
2.3.3	Solid apple products, including apple compote, apple puree intended for direct consumption with the exception of foodstuffs listed in 2.3.4 and 2.3.5	25
2.3.4	Apple juice and solid apple products, including apple compote and apple puree, for infants and young children [16] and labelled and sold as such [4]	10,0
2.3.5	Baby foods other than processed cereal-based foods for infants and young children [3] [4]	10,0
2.4	**Deoxynivalenol** [17]	
2.4.1	Unprocessed cereals [18] [19] other than durum wheat, oats and maize	1 250
2.4.2	Unprocessed durum wheat and oats [18] [19]	1 750
2.4.3	Unprocessed maize [18]	1 750 [20]
2.4.4	Cereals intended for direct human consumption, cereal flour (including maize flour, maize meal and maize grits [21]), bran as end product marketed for direct human consumption and germ, with the exception of foodstuffs listed in 2.4.7	750
2.4.5	Pasta (dry) [22]	750
2.4.6	Bread (including small bakery wares), pastries, biscuits, cereal snacks and breakfast cereals	500
2.4.7	Processed cereal-based foods and baby foods for infants and young children [3] [7]	200
2.5	**Zearalenone** [17]	
2.5.1	Unprocessed cereals [18] [19] other than maize	100
2.5.2	Unprocessed maize [18]	200 [20]
2.5.3	Cereals intended for direct human consumption, cereal flour, bran as end product marketed for direct human consumption and germ, with the exception of foodstuffs listed in 2.5.4, 2.5.7 and 2.5.8	75
2.5.4	Maize intended for direct human consumption, maize flour, maize meal, maize grits, maize germ and refined maize oil [21]	200 [20]
2.5.5	Bread (including small bakery wares), pastries, biscuits, cereal snacks and breakfast cereals, excluding maize snacks and maize based breakfast cereals	50
2.5.6	Maize snacks and maize based breakfast cereals	50 [20]

	Foodstuffs [1]	Maximum levels (µg/kg)
2.5.7	Processed cereal-based foods (excluding processed maize-based foods) and baby foods for infants and young children [3] [7]	20
2.5.8	Processed maize-based foods for infants and young children [3] [7]	20 [20]
2.6	**Fumonisins**	Sum of B_1 and B_2
2.6.1	Unprocessed maize [18]	2 000 [23]
2.6.2	Maize flour, maize meal, maize grits, maize germ and refined maize oil [21]	1 000 [23]
2.6.3	Maize based foods for direct human consumption, excluding foods listed in 2.6.2 and 2.6.4	400 [23]
2.6.4	Processed maize-based foods and baby foods for infants and young children [3] [7]	200 [23]
2.7	**T-2 and HT-2 toxin** [17]	Sum of T-2 and HT-2 toxin
2.7.1	Unprocessed cereals [18] and cereal products	

Section 3: Metals

	Foodstuffs [1]	Maximum levels (mg/kg wet weight)
3.1	**Lead**	
3.1.1	Raw milk [6], heat-treated milk and milk for the manufacture of milk-based products	0,020
3.1.2	Infant formulae and follow-on formulae [4] [8]	0,020
3.1.3	Meat (excluding offal) of bovine animals, sheep, pig and poultry [6]	0,10
3.1.4	Offal of bovine animals, sheep, pig and poultry [6]	0,50
3.1.5	Muscle meat of fish [24] [25]	0,30
3.1.6	Crustaceans, excluding brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*) [26]	0,50
3.1.7	Bivalve molluscs [26]	1,5
3.1.8	Cephalopods (without viscera) [26]	1,0
3.1.9	Cereals, legumes and pulses	0,20
3.1.10	Vegetables, excluding brassica vegetables, leaf vegetables, fresh herbs and fungi [27]. For potatoes the maximum level applies to peeled potatoes	0,10

	Foodstuffs [1]	Maximum levels (mg/kg wet weight)
3.1.11	Brassica vegetables, leaf vegetables and cultivated fungi [27]	0,30
3.1.12	Fruit, excluding berries and small fruit [27]	0,10
3.1.13	Berries and small fruit [27]	0,20
3.1.14	Fats and oils, including milk fat	0,10
3.1.15	Fruit juices, concentrated fruit juices as reconstituted and fruit nectars [14]	0,050
3.1.16	Wine (including sparkling wine, excluding liqueur wine), cider, perry and fruit wine [11]	0,20 [28]
3.1.17	Aromatized wine, aromatized wine-based drinks and aromatized wine-product cocktails [13]	0,20 [28]
3.2	**Cadmium**	
3.2.1	Meat (excluding offal) of bovine animals, sheep, pig and poultry [6]	0,050
3.2.2	Horsemeat, excluding offal [6]	0,20
3.2.3	Liver of bovine animals, sheep, pig, poultry and horse [6]	0,50
3.2.4	Kidney of bovine animals, sheep, pig, poultry and horse [6]	1,0
3.2.5	Muscle meat of fish [24] [25], excluding species listed in 3.2.6 and 3.2.7	0,050
3.2.6	Muscle meat of the following fish [24] [25]: anchovy (*Engraulis species*) bonito (*Sarda sarda*) common two-banded seabream (*Diplodus vulgaris*) eel (*Anguilla anguilla*) grey mullet (*Mugil labrosus labrosus*) horse mackerel or scad (*Trachurus species*) louvar or luvar (*Luvarus imperialis*) sardine (*Sardina pilchardus*) sardinops (*Sardinops species*) tuna (*Thunnus species, Euthynnus species, Katsuwonus pelamis*) wedge sole (*Dicologoglossa cuneata*)	0,10
3.2.7	Muscle meat of swordfish (*Xiphias gladius*) [24] [25]	0,30
3.2.8	Crustaceans, excluding brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*) [26]	0,50
3.2.9	Bivalve molluscs [26]	1,0
3.2.10	Cephalopods (without viscera) [26]	1,0

	Foodstuffs [1]	Maximum levels (mg/kg wet weight)
3.2.11	Cereals excluding bran, germ, wheat and rice	0,10
3.2.12	Bran, germ, wheat and rice	0,20
3.2.13	Soybeans	0,20
3.2.14	Vegetables and fruit, excluding leaf vegetables, fresh herbs, fungi, stem vegetables, pine nuts, root vegetables and potatoes [27]	0,050
3.2.15	Leaf vegetables, fresh herbs, cultivated fungi and celeriac [27]	0,20
3.2.16	Stem vegetables, root vegetables and potatoes, excluding celeriac [27]. For potatoes the maximum level applies to peeled potatoes	0,10
3.3	**Mercury**	
3.3.1	Fishery products [26] and muscle meat of fish [24] [25], excluding species listed in 3.3.2. The maximum level applies to crustaceans, excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*)	0,50
3.3.2	Muscle meat of the following fish [24] [25]: anglerfish (*Lophius species*) atlantic catfish (*Anarhichas lupus*) bonito (*Sarda sarda*) eel (*Anguilla species*) emperor, orange roughy, rosy soldierfish (*Hoplostethus species*) grenadier (*Coryphaenoides rupestris*) halibut (*Hippoglossus hippoglossus*) marlin (*Makaira species*) megrim (*Lepidorhombus species*) mullet (*Mullus species*) pike (*Esox lucius*) plain bonito (*Orcynopsis unicolor*) poor cod (*Tricopterus minutes*) portuguese dogfish (*Centroscymnus coelolepis*) rays (*Raja species*) redfish (*Sebastes marinus, S. mentella, S. viviparus*) sail fish (*Istiophorus platypterus*) scabbard fish (*Lepidopus caudatus, Aphanopus carbo*) seabream, pandora (*Pagellus species*) shark (all species) snake mackerel or butterfish (*Lepidocybium flavobrunneum, Ruvettus pretiosus, Gempylus serpens*) sturgeon (*Acipenser species*) swordfish (*Xiphias gladius*) tuna (*Thunnus species, Euthynnus species, Katsuwonus pelamis*)	1,0
3.4	**Tin (inorganic)**	
3.4.1	Canned foods other than beverages	200
3.4.2	Canned beverages, including fruit juices and vegetable juices	100

	Foodstuffs [1]	Maximum levels (mg/kg wet weight)
3.4.3	Canned baby foods and processed cereal-based foods for infants and young children, excluding dried and powdered products [3] [29]	50
3.4.4	Canned infant formulae and follow-on formulae (including infant milk and follow-on milk), excluding dried and powdered products [8] [29]	50
3.4.5	Canned dietary foods for special medical purposes [9] [29] intended specifically for infants, excluding dried and powdered products	50

Section 4: 3-monochloropropane-1,2-diol (3-MCPD)

	Foodstuffs [1]	Maximum levels (μg/kg)
4.1	Hydrolysed vegetable protein [30]	20
4.2	Soy sauce [30]	20

Section 5: Dioxins and PCBs [31]

	Foodstuffs	Maximum levels	
		Sum of dioxins (WHO-PCDD/F-TEQ) [32]	Sum of dioxins and dioxin-like PCBs (WHO-PCDD/F-PCB-TEQ) [32]
5.1	Meat and meat products (excluding edible offal) of the following animals [6]		
	— bovine animals and sheep	3,0 pg/g fat [33]	4,5 pg/g fat [33]
	— poultry	2,0 pg/g fat [33]	4,0 pg/g fat [33]
	— pigs	1,0 pg/g fat [33]	1,5 pg/g fat [33]
5.2	Liver of terrestrial animals referred to in 5.1 [6], and derived products thereof	6,0 pg/g fat [33]	12,0 pg/g fat [33]
5.3	Muscle meat of fish and fishery products and products thereof, excluding eel [25] [34]. The maximum level applies to crustaceans, excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*)	4,0 pg/g wet weight	8,0 pg/g wet weight
5.4	Muscle meat of eel (*Anguilla anguilla*) and products thereof	4,0 pg/g wet weight	12,0 pg/g wet weight
5.5	Raw milk [6] and dairy products [6], including butterfat	3,0 pg/g fat [33]	6,0 pg/g fat [33]

	Foodstuffs	Maximum levels	
		Sum of dioxins (WHO-PCDD/F-TEQ) ([32])	Sum of dioxins and dioxin-like PCBs (WHO-PCDD/F-PCB-TEQ) ([32])
5.6	Hen eggs and egg products ([6])	3,0 pg/g fat ([33])	6,0 pg/g fat ([33])
5.7	Fat of the following animals:		
	— bovine animals and sheep	3,0 pg/g fat	4,5 pg/g fat
	— poultry	2,0 pg/g fat	4,0 pg/g fat
	— pigs	1,0 pg/g fat	1,5 pg/g fat
5.8	Mixed animal fats	2,0 pg/g fat	3,0 pg/g fat
5.9	Vegetable oils and fats	0,75 pg/g fat	1,5 pg/g fat
5.10	Marine oils (fish body oil, fish liver oil and oils of other marine organisms intended for human consumption)	2,0 pg/g fat	10,0 pg/g fat

Section 6: Polycyclic aromatic hydrocarbons

	Foodstuffs	Maximum levels (µg/kg wet weight)
6.1	**Benzo(a)pyrene** ([35])	
6.1.1	Oils and fats (excluding cocoa butter) intended for direct human consumption or use as an ingredient in foods	2,0
6.1.2	Smoked meats and smoked meat products	5,0
6.1.3	Muscle meat of smoked fish and smoked fishery products ([25]) ([36]), excluding bivalve molluscs. The maximum level applies to smoked crustaceans, excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*)	5,0
6.1.4	Muscle meat of fish ([24]) ([25]), other than smoked fish	2,0
6.1.5	Crustaceans, cephalopods, other than smoked ([26]). The maximum level applies to crustaceans, excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*)	5,0
6.1.6	Bivalve molluscs ([26])	10,0
6.1.7	Processed cereal-based foods and baby foods for infants and young children ([3]) ([29])	1,0
6.1.8	Infant formulae and follow-on formulae, including infant milk and follow-on milk ([8]) ([29])	1,0
6.1.9	Dietary foods for special medical purposes ([9]) ([29]) intended specifically for infants	1,0

(1) As regards fruits, vegetables and cereals, reference is made to the foodstuffs listed in the relevant category as defined in Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1) as last amended by Regulation (EC) No 178/2006 (OJ L 29, 2.2.2006, p. 3). This means, *inter alia*, that buckwheat (*Fagopyrum* sp) is included in 'cereals' and buckwheat products are included in 'cereal products'.

(2) The maximum levels do not apply for fresh spinach to be subjected to processing and which is directly transported in bulk from field to processing plant.

(3) Foodstuffs listed in this category as defined in Commission Directive 96/5/EC of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children (OJ L 49, 28.2.1996, p. 17) as last amended by Directive 2003/13/EC (OJ L 41, 14.2.2003, p. 33).

(4) The maximum level refers to the products ready to use (marketed as such or after reconstitution as instructed by the manufacturer).

(5) The maximum levels refer to the edible part of groundnuts and nuts. If groundnuts and nuts 'in shell' are analysed, it is assumed when calculating the aflatoxin content all the contamination is on the edible part.

(6) Foodstuffs listed in this category as defined in 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 (OJ L 226, 25.6.2004, p. 22).

(7) The maximum level refers to the dry matter. The dry matter is determined in accordance with Regulation (EC) No 401/2006.

(8) Foodstuffs listed in this category as defined in Commission Directive 91/321/EEC of 14 May 1991 on infant formulae and follow-on formulae (OJ L 175, 4.7.1991, p. 35) as last amended by Directive 2003/14/EC (OJ L 41, 14.2.2003, p. 37).

(9) Foodstuffs listed in this category as defined in Commission Directive 1999/21/EC of 25 March 1999 on dietary foods for special medical purposes (OJ L 91, 7.4.1999, p. 29).

(10) The maximum level refers in the case of milk and milk products, to the products ready for use (marketed as such or reconstituted as instructed by the manufacturer) and in the case of products other than milk and milk products, to the dry matter. The dry matter is determined in accordance with Regulation (EC) No 401/2006.

(11) Foodstuffs listed in this category as defined in Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1) as last amended by the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union (OJ L 157, 21.6.2005, p. 29).

(12) The maximum level applies to products produced from the 2005 harvest onwards.

(13) Foodstuffs listed in this category as defined in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails (OJ L 149, 14.6.1991, p. 1) as last amended by the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union. The maximum level for OTA applicable to these beverages is function of the proportion of wine and/or grape must present in the finished product.

(14) Foodstuffs listed in this category as defined in Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption (OJ L 10, 12.1.2002, p. 58).

(15) Foodstuffs listed in this category as defined in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks (OJ L 160, 12.6.1989, p. 1), as last amended by the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union.

(16) Infants and young children as defined in Directive 91/321/EEC and Directive 96/5/EC.

(17) For the purpose of the application of maximum levels for deoxynivalenol, zearalenone, T-2 and HT-2 toxin established in points 2.4, 2.5 and 2.7 rice is not included in 'cereals' and rice products are not included in 'cereal products'.

(18) The maximum level applies to unprocessed cereals placed on the market for first-stage processing. 'First-stage processing' shall mean any physical or thermal treatment, other than drying, of or on the grain. Cleaning, sorting and drying procedures are not considered to be 'first-stage processing' insofar no physical action is exerted on the grain kernel itself and the whole grain remains intact after cleaning and sorting. In integrated production and processing systems, the maximum level applies to the unprocessed cereals in case they are intended for first-stage processing.

(19) The maximum level applies to cereals harvested and taken over, as from the 2005/06 marketing year, in accordance with Commission Regulation (EC) No 824/2000 of 19 April 2000 establishing procedures for the taking-over of cereals by intervention agencies and laying down methods of analysis for determining the quality of cereals (OJ L 100, 20.4.2000, p. 31), as last amended by Regulation (EC) No 1068/2005 (OJ L 174, 7.7.2005, p. 65).

(20) Maximum level shall apply from 1 July 2007.

(21) This category includes also similar products otherwise denominated such as semolina.

(22) Pasta (dry) means pasta with a water content of approximately 12 %.

([23]) Maximum level shall apply from 1 October 2007.

([24]) Fish listed in this category as defined in category (a), with the exclusion of fish liver falling under code CN 0302 70 00, of the list in Article 1 of Council Regulation (EC) No 104/2000 (OJ L 17, 21.1.2000, p. 22) as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33). In case of dried, diluted, processed and/or compound foodstuffs Article 2(1) and 2(2) apply.

([25]) Where fish are intended to be eaten whole, the maximum level shall apply to the whole fish.

([26]) Foodstuffs falling within category (c) and (f) of the list in Article 1 of Regulation (EC) No 104/2000, as appropriate (species as listed in the relevant entry). In case of dried, diluted, processed and/or compound foodstuffs Article 2(1) and 2(2) apply.

([27]) The maximum level applies after washing of the fruit or vegetables and separating the edible part.

([28]) The maximum level applies to products produced from the 2001 fruit harvest onwards.

([29]) The maximum level refers to the product as sold.

([30]) The maximum level is given for the liquid product containing 40 % dry matter, corresponding to a maximum level of 50 µg/kg in the dry matter. The level needs to be adjusted proportionally according to the dry matter content of the products.

([31]) Dioxins (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), expressed as World Health Organisation (WHO) toxic equivalent using the WHO-toxic equivalency factors (WHO-TEFs)) and sum of dioxins and dioxin-like PCBs (sum of PCDDs, PCDFs and polychlorinated biphenyls (PCBs), expressed as WHO toxic equivalent using the WHO-TEFs). WHO-TEFs for human risk assessment based on the conclusions of the WHO meeting in Stockholm, Sweden, 15 to 18 June 1997 (Van den Berg et al., (1998) Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, PCDFs for Humans and for Wildlife. Environmental Health Perspectives, 106 (12), 775).

Congener	TEF value	Congener	TEF value
Dibenzo-p-dioxins (PCDDs)		**Dioxin-like PCBs: Non-ortho PCBs + Mono-ortho PCBs**	
2,3,7,8-TCDD	1	*Non-ortho PCBs*	
1,2,3,7,8-PeCDD	1	PCB 77	0,0001
1,2,3,4,7,8-HxCDD	0,1	PCB 81	0,0001
1,2,3,6,7,8-HxCDD	0,1	PCB 126	0,1
1,2,3,7,8,9-HxCDD	0,1	PCB 169	0,01
1,2,3,4,6,7,8-HpCDD	0,01		
OCDD	0,0001	*Mono-ortho PCBs*	
Dibenzofurans (PCDFs)		PCB 105	0,0001
2,3,7,8-TCDF	0,1	PCB 114	0,0005
1,2,3,7,8-PeCDF	0,05	PCB 118	0,0001
2,3,4,7,8-PeCDF	0,5	PCB 123	0,0001
1,2,3,4,7,8-HxCDF	0,1	PCB 156	0,0005
1,2,3,6,7,8-HxCDF	0,1	PCB 157	0,0005
1,2,3,7,8,9-HxCDF	0,1	PCB 167	0,00001
2,3,4,6,7,8-HxCDF	0,1	PCB 189	0,0001
1,2,3,4,6,7,8-HpCDF	0,01		
1,2,3,4,7,8,9-HpCDF	0,01		
OCDF	0,0001		

Abbreviations used: 'T' = tetra; 'Pe' = penta; 'Hx' = hexa; 'Hp' = hepta; 'O' = octa; 'CDD' = chlorodibenzodioxin; 'CDF' = chlorodibenzofuran; 'CB' = chlorobiphenyl.

([32]) Upperbound concentrations: Upperbound concentrations are calculated on the assumption that all the values of the different congeners below the limit of quantification are equal to the limit of quantification.

([33]) The maximum level is not applicable for foods containing < 1 % fat.

([34]) Foodstuffs listed in this category as defined in categories (a), (b), (c), (e) and (f) of the list in Article 1 of Regulation (EC) No 104/2000 with the exclusion of fish liver falling under code CN 0302 70 00.

([35]) Benzo(a)pyrene, for which maximum levels are listed, is used as a marker for the occurrence and effect of carcinogenic polycyclic aromatic hydrocarbons. These measures therefore provide full harmonisation on polycyclic aromatic hydrocarbons in the listed foods across the Member States.

([36]) Foodstuffs listed in this category as defined in categories (b), (c), and (f) of the list in Article 1 of Regulation (EC) No 104/2000.

COMMISSION REGULATION (EC) No 1882/2006

of 19 December 2006

laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ([1]), in particular Article 11 (4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs ([2]) provides for maximum levels for nitrates in spinach, lettuce, iceberg-type lettuce, baby foods and processed cereal-based food for infants and young children.

(2) Sampling plays an important role in the precision of the determination of the levels of nitrates, as well the sample preparation procedures.

(3) It is necessary to fix general criteria with which the method of analysis should comply in order to ensure that control laboratories use methods of analysis with comparable levels of performance.

(4) Fresh lettuce and spinach are very perishable products and it is in most cases not possible to detain the consignments until the analytical result of the official control is available. Therefore in these cases competent authorities might consider it appropriate and necessary to perform an official sampling at the field shortly before harvest.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Sampling, sample preparation and analyses for the official control of the levels of nitrates in foodstuffs listed in Section 1 of the Annex to Regulation (EC) No 1881/2006 shall be carried out in accordance with the methods set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 March 2007.

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

Done at Brussels, 19 December 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

([1]) OJ L 165, 30.4.2004, p. 1, as corrected by OJ L 191, 28.5.2004, p. 1. Regulation as amended by Commission Regulation (EC) No 776/2006 (OJ L 136, 24.5.2006, p. 3).
([2]) See page 5 of this Official Journal.

ANNEX

METHODS OF SAMPLING, SAMPLE PREPARATION AND ANALYSIS FOR OFFICIAL CONTROL OF LEVELS OF NITRATES IN CERTAIN FOODSTUFFS

A. GENERAL PROVISIONS

Official controls shall be performed in accordance with the provisions of Regulation (EC) No 882/2004. The following general provisions shall apply without prejudice to the provisions in Regulation (EC) No 882/2004.

A.1 **Scope**

Samples intended for official control of the levels of nitrate content in foodstuffs listed in Section 1 of the Annex to Regulation (EC) No 1881/2006 shall be taken according to the methods set out in this Annex. Aggregate samples thus obtained, either directly from a field or from a lot, shall be considered as representative of the lots.

Compliance shall be established on the basis of the levels determined in the laboratory samples.

A.2 **Definitions**

For the purpose of this Annex, the following definitions shall apply:

A.2.1 'lot' means an identifiable quantity of a food commodity to be harvested at the same time or delivered at one time and determined by the official to have common characteristics, such as origin, variety or soil type within a maximum area of 2 hectares, type of packing, packer, consignor or markings.

A.2.2 'sublot' means a designated part of a large lot in order to apply the sampling method on that designated part; each sublot must be physically separate and identifiable.

A.2.3 'incremental sample or unit' means a quantity of material taken from a single place in the lot or sublot. In this case it may be a single lettuce or spinach head, or handful of baby leaf, or one bag of cut leaves.

A.2.4 'aggregate sample' means the combined total of all the incremental samples taken from the lot or sublot.

A.2.5 'laboratory sample' means a sample intended for the laboratory.

A.2.6 'field' means a specified area of land of the same soil type and cultivation practice, containing a single variety of lettuce or spinach at same growth stage. 'Field' may also be referred to as 'lot' in the method of sampling.

A.2.7 'area under cover' means a specified area of land covered by a glasshouse or a polytunnel (plastic or polyethylene tunnel or greenhouse) containing a single variety of lettuce or spinach at the same growth stage and to be harvested at the same time. 'Area under cover' may also be referred to as 'lot' in the method of sampling.

A.3 **General provisions**

A.3.1 *Personnel*

Sampling shall be performed by an authorised person as designated by the Member State.

A.3.2 *Material to be sampled*

Each lot which is to be examined shall be sampled separately. Large lots (i.e. lots of more than 30 tonnes or larger than 3 hectares) shall be subdivided into sublots to be sampled separately.

A.3.3 *Precautions to be taken*

In the course of sampling and preparation of the samples, precautions shall be taken to avoid any changes, which would affect:

— the nitrate content, adversely affect the analytical determination or make the aggregate samples unrepresentative, e.g. the presence of soil on lettuce or spinach during sample preparation,

— the food safety or integrity of the lots to be sampled.

Also, all measures necessary to ensure the safety of the persons taking the samples shall be taken.

A.3.4 *Incremental samples*

As far as possible incremental samples shall be taken at various places distributed throughout the lot or sublot. Departure from such procedure shall be recorded in the record provided for under part A.3.8. of this Annex.

A.3.5 *Preparation of the aggregate sample*

The aggregate sample shall be made up by combining the incremental samples.

A.3.6 *Replicate samples*

The replicate samples for enforcement, defence and reference purposes shall be taken from the homogenised aggregate sample, unless such procedure conflicts with Member States' rules as regards the rights of the food business operator.

A.3.7 *Packaging and transmission of samples*

Each sample shall be placed in a clean, inert sealed opaque plastic bag to prevent loss of moisture and offering adequate protection against any damage or contamination.

The sample must be transferred to the laboratory within 24 hours of sampling and shall be kept cool during transport. If this is not possible the sample shall be deep-frozen within 24 hours and kept frozen (up to a maximum of six weeks).

All additional necessary precautions shall be taken to avoid any change in composition of the sample, which might arise during transportation or storage.

A.3.8 *Sealing and labelling of samples*

Each sample taken for official use shall be sealed at the place of sampling and identified following the rules of the Member State.

A record shall be kept of each sampling, permitting each lot to be identified unambiguously and the sampling officer shall record the variety, grower, production method, date, place of sampling, food business operator responsible for consignment, and any other relevant information likely to be of assistance to the analyst.

A.4 **Different types of lots**

Food commodities may be traded in bulk or in containers, including sacks, bags and crates, or in individual retail packings. The method of sampling may be applied to all the different forms in which the commodities are put on the market.

B. METHOD OF SAMPLING

As far as possible, incremental samples shall be taken at various places throughout the lot or sublot.

B.1 **Sampling in the field**

In case the competent authority considers it necessary to sample the lettuce or spinach in the field, the sampling has to be performed as follows:

Incremental samples shall not be collected from areas that appear to be unrepresentative of the field or area under cover. Areas with different soil types, which have been subjected to different cultivation practices or contain different lettuce or spinach varieties, or to be harvested at a different time, shall be treated as separate lots or fields. If the field is larger than 3 hectares, the field shall be divided into sublots of 2 hectares and each sublot shall be sampled separately.

Incremental samples shall be collected by walking a 'W' or 'X' shaped pattern across the field. Crops harvested from narrow beds or area under cover shall be harvested in a 'W' or 'X' shaped pattern from several beds and pooled to form the aggregate sample.

Plants must be cut at ground level.

The sample must contain at least 10 plants, and the aggregate sample of 10 plants must weigh at least 1 kg. Only units of a marketable size shall be sampled [1]. Soil, outer non-edible and damaged leaves shall be removed from each unit.

B.2 **Sampling of lots of spinach, lettuce, baby foods and processed cereal based food for infants and young children on the market**

The sampling method is applicable to lots smaller than or equal to 25 tonnes.

In the case of large lots (lots > 30 tonnes), the lot shall be subdivided into sublots of in principle 25 tonnes on condition that the sublot may be separated physically. Taking into account that the weight of the lot is not always an exact multiple of 25 tonnes, the weight of the sublot may exceed the mentioned weight by a maximum of 20 %. This means that the sublot may have weight ranging from 15 to 30 tonnes. In case the lot is not or cannot be physically separated into sublots, the sample is taken from the lot.

The aggregate sample shall be at least 1 kg, except where it is not possible e.g. when sampling a single head or package.

The minimum number of incremental samples to be taken from the lot shall be as given in Table 1.

Table 1

Minimum number of incremental samples to be taken from the lot

Weight of lot (in kg)	Minimum number of incremental samples to be taken	Aggregate sample minimum weight (kg)
< 50	3	1
50 to 500	5	1
> 500	10	1

If the lot consists of individual packages, then the number of packages, which shall be taken to form the aggregate sample, is given in Table 2.

Table 2

Number of packages (incremental samples) which shall be taken to form the aggregate sample if the lot consists of individual packages

Number of packages or units in the lot	Number of packages or units to be taken	Aggregate sample minimum weight (kg)
1 to 25	1 package or unit	1
26 to 100	about 5 %, at least 2 packages or units	1
> 100	about 5 %, at maximum 10 packages or units	1

[1] The marketable size for lettuces, curled leaved and broad leaved endives is provided for in Commission Regulation (EC) No 1543/2001 of 27 July 2001 laying down the marketing standard for lettuces and curled leaved and broad-leaved endives (OJ L 203, 28.7.2001, p. 9), as last amended by Commission Regulation (EC) No 6/2005 of 4 January 2005 (OJ L 2, 5.1.2005, p. 3).

Each lot or sublot to be checked for compliance, must be sampled separately. However, in cases where such method of sampling would lead to unacceptable commercial consequences resulting from damage to the lot (because of packaging formats, means of transport, etc.) then an alternative method of sampling may be applied, provided that it ensures that the aggregate sample is sufficiently representative of the sampled lot and is fully described and documented. The position from which a sample is taken in the lot shall preferably be chosen randomly but, where this is physically impractical, it shall be from a random position in the accessible parts of the lot.

B.3 **Sampling at retail stage**

Sampling of foodstuffs at the retail stage shall be done where possible in accordance with the sampling provisions set out in B.2.

Where that is not possible, an alternative method of sampling at retail stage may be used provided that it ensures that the aggregate sample is sufficiently representative of the sampled lot and is fully described and documented ([1]).

B.4 **Assessment of compliance of a lot or sublot**

— acceptance if the laboratory sample conforms to the maximum limit, taking into account the measurement uncertainty and correction for recovery,

— rejection if the laboratory sample exceeds the maximum limit beyond reasonable doubt taking into account the measurement uncertainty and correction for recovery (i.e. the analytical result corrected for recovery and minus the expanded measurement uncertainty is used to assess compliance).

C. SAMPLE PREPARATION

1. In the case of sampling of fresh produce, sample preparation shall take place within 24 hours of sampling if possible. If not, the sample shall be kept frozen (up to a maximum of six weeks).

2. Soil, heavily soiled and other outer non-edible and damaged leaves shall be removed from each of the individual units. Washing of the samples is not allowed as the content of nitrates can decrease by washing of the samples.

3. The complete sample is to be homogenised (the addition of a known amount of water is optional). Depending upon the size of the blender/macerator/chopper used, one or more individual units may be combined for homogenisation purposes. Blending may be aided by freezing and chopping the units before homogenisation is carried out. It must be demonstrated that the homogenisation process used achieves complete homogenisation. Thorough homogenisation is essential for maximum extraction and recovery of nitrate. Samples shall be treated identically in this way irrespective of whether they have been obtained from the field or from retail.

4. One or more analytical samples are taken from the combined slurries for analysis.

D. METHOD OF ANALYSIS, REPORTING OF RESULTS AND LABORATORY CONTROL REQUIREMENTS

D.1 **Definitions**

For the purposes of this Annex, the following definitions shall apply:

r = Repeatability, the value below which the absolute difference between two single test results obtained under repeatability conditions, namely same sample, same operator, same apparatus, same laboratory, and short interval of time may be expected to lie within a specific probability (typically 95 %) and hence $r = 2{,}8 \times s_r$.

s_r = Standard deviation, calculated from results generated under repeatability conditions.

([1]) In case the portion to be sampled is so small that it is impossible to obtain an aggregate sample of 1 kg, the aggregate sample weight might be less than 1 kg. Also in case of sampling of processed cereal-based foods and baby foods for infants and young children, the aggregate sample weight might be 0,5 kg.

RSD_r = Relative standard deviation, calculated from results generated under repeatability conditions ($(s_r / \bar{x}) \times 100$).

R = Reproducibility, the value below which the absolute difference between single test results obtained under reproducibility conditions, namely on identical material obtained by operators in different laboratories, using the standardised test method may be expected to lie within a certain probability (typically 95 %); $R = 2{,}8 \times s_R$.

s_R = Standard deviation, calculated from results under reproducibility conditions.

RSD_R = Relative standard deviation calculated from results generated under reproducibility conditions ($(s_R / \bar{x}) \times 100$).

D.2 **General requirements**

Methods of analysis used for food control purposes must comply with the provisions of items 1 and 2 of Annex III to Regulation (EC) No 882/2004.

D.3 **Specific requirements**

D.3.1 *Extraction procedure*

Particular attention must be paid to the extraction procedure applied. Several extraction procedures have proven to guarantee an effective extraction of the nitrate, such as hot water or methanol/water (30/70) extraction method. Cold water extraction may only be used if the analytical sample has been frozen prior to sample extraction.

D.3.2 *Performance criteria*

The specific criteria for methods of analysis used in the monitoring of nitrate levels shall be:

Criterion	Concentration range	Recommended value	Maximum permitted value
Recovery	< 500 mg/kg	60-120 %	
	≥ 500 mg/kg	90-110 %	
Precision RSD_R	All	As derived from Horwitz Equation	2 × value derived from Horwitz Equation

Precision RSD_r may be calculated as 0,66 times Precision RSD_R at the concentration of interest.

Notes to the performance criteria

— Concentration ranges are not stated, as the precision values are calculated at the concentrations of interest,

— the precision values are calculated from the Horwitz equation, i.e.:

$$RSD_R = 2^{(1-0,5\log C)}$$

where:

— RSD_R is the relative standard deviation calculated from results generated under reproducibility conditions ($(s_R / \bar{x}) \times 100$)

— C is the concentration ratio (i.e. 1 = 100 g/100 g, 0,001 = 1 000 mg/kg).

D.4 **Reporting of results, estimation of measurement uncertainty and recovery calculation** [1]

The analytical result must be reported corrected or uncorrected for recovery. The manner of reporting and the level of recovery must be reported. The analytical result corrected for recovery shall be used for checking compliance.

The analytical result must be reported as × +/–- U whereby × is the analytical result and U is the expanded measurement uncertainty.

U is the expanded measurement uncertainty, using a coverage factor of 2 which gives a level of confidence of approximately 95 %.

The present interpretation rules of the analytical result in view of acceptance or rejection of the lot apply for the analytical result obtained on the sample for official control. In case of analysis for defence or referee purposes, the national rules apply.

D.5 **Laboratory quality standards**

Laboratory must comply with the provisions of Article 12 of Regulation (EC) No 882/2004.

[1] More details on procedures for the estimation of measurement uncertainty and on procedures for assessing recovery can be found in the report 'Report on the relationship between analytical results, measurement uncertainty, recovery factors and the provisions of EU food and feed legislation' — http://ec.europa.eu/food/food/chemicalsafety/contaminants/report-sampling_analysis_2004_en.pdf

COMMISSION REGULATION (EC) No 1883/2006

of 19 December 2006

laying down methods of sampling and analysis for the official control of levels of dioxins and dioxin-like PCBs in certain foodstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ([1]), and in particular Article 11 (4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs ([2]) provides for maximum levels for dioxins and furans and for the sum of dioxins, furans and dioxin-like PCBs in certain foodstuffs.

(2) Commission Directive 2002/69/EC of 26 July 2002 laying down the sampling methods and the methods of analysis for the official control of dioxins and the determination of dioxin-like PCBs in foodstuffs ([3]) establishes specific provisions concerning the sampling procedure and the methods of analysis to be applied for the official control.

(3) The application of new maximum levels for the sum of dioxins, furans and dioxin-like PCBs requires amendments to Directive 2002/69/EC. For reasons of clarity, it is appropriate to replace Directive 2002/69/EC by this Regulation.

(4) The provisions laid down in this Regulation relate only to the sampling and analysis of dioxins and dioxin-like PCBs for the implementation of Regulation (EC) No 1881/2006 and do not affect the sampling strategy, sampling levels and frequency as specified in Annexes III and IV of Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC ([4]). They do not affect the targeting criteria for sampling as laid down in Commission Decision 98/179/EC of 23 February 1998 laying down detailed rules on official sampling for the monitoring of certain substances and residues thereof in live animals and animal products ([5]).

(5) A screening method of analysis with proven, widely acceptable validation and high throughput should be used to select the samples with significant levels of dioxins and dioxin-like PCBs. The levels of dioxins and dioxin-like PCBs in these samples need to be determined by a confirmatory method of analysis. It is therefore appropriate to establish strict requirements for the confirmatory methods of analysis and minimum requirements for the screening method.

(6) For the sampling of very large fishes, it is necessary that the sampling is specified in order to ensure a harmonised approach throughout the Community.

(7) In fishes of the same species and originating from the same region, the level of dioxins and dioxin-like PCBs in the fish can be different dependent on the size and or age of the fish. Moreover the level of dioxins and dioxin-like PCBs is not necessarily the same in all parts of the fish. Therefore in case of sampling of fishes, it is necessary that the sampling and sample preparation is specified in order to ensure a harmonised approach throughout the Community.

(8) It is of major importance that analytical results are reported and interpreted in a uniform way in order to ensure a harmonised enforcement approach throughout the Community.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food chain and Animal Health,

([1]) OJ L 165, 30.4.2004, p. 1, as corrected by OJ L 191, 28.5.2004, p. 1. Regulation amended by Commission Regulation (EC) No 776/2006 (OJ L 136, 24.5.2006, p. 3).

([2]) See page 5 of this Official Journal.

([3]) OJ L 209, 6.8.2002, p. 5. Directive as last amended by Directive 2004/44/EC (OJ L 113, 20.4.2004, p. 17).

([4]) OJ L 125, 23.5.1996, p. 10. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1, as corrected by OJ L 191, 28.5.2004, p. 1).

([5]) OJ L 65, 5.3.1998, p. 31. Decision as amended by the 2003 Act of Accession.

HAS ADOPTED THIS REGULATION:

Article 1

Sampling for the official control of the levels of dioxins, furans and dioxin-like PCBs in foodstuffs listed in Section 5 of the Annex to Regulation (EC) No 1881/2006 shall be carried out in accordance with the methods set out in Annex I to this Regulation.

Article 2

Sample preparation and analyses for the official control of the levels of dioxins, furans and dioxin-like PCBs in foodstuffs listed in Section 5 of the Annex to Regulation (EC) No 1881/2006 shall be carried out in accordance with the methods set out in Annex II to this Regulation.

Article 3

Directive 2002/69/EC is hereby repealed. References to the repealed Directive shall be construed as references to this Regulation.

Article 4

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

It shall apply from 1 March 2007.

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

Done at Brussels, 19 December 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX I

METHODS OF SAMPLING FOR OFFICIAL CONTROL OF LEVELS OF DIOXINS (PCDD/PCDF) AND DIOXIN-LIKE PCBs IN CERTAIN FOODSTUFFS

1. SCOPE

Samples intended for the official control of the levels of dioxins (PCDD/PCDF) and dioxin like PCBs in foodstuffs shall be taken according to the methods described in this Annex. Aggregate samples thus obtained shall be considered as representative of the lots or sublots from which they are taken. Compliance with maximum levels laid down in Commission Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs shall be established on the basis of the levels determined in the laboratory samples.

2. DEFINITIONS

Lot: an identifiable quantity of food delivered at one time and determined by the official to have common characteristics, such as origin, variety, type of packing, packer, consignor or markings. In the case of fish and fishery products, also the size of fish shall be comparable. In case the size and/or weight of the fish is not comparable within a consignment, the consignment may still be considered as a lot but a specific sampling procedure has to be applied.

— Sublot: designated part of a large lot in order to apply the sampling method on that designated part. Each sublot must be physically separated and identifiable.

— Incremental sample: a quantity of material taken from a single place in the lot or sublot.

— Aggregate sample: the combined total of all the incremental samples taken from the lot or sublot.

— Laboratory sample: a representative part/quantity of the aggregate sample intended for the laboratory.

3. GENERAL PROVISIONS

3.1. **Personnel**

Sampling shall be performed by an authorised person as designated by the Member State.

3.2. **Material to be sampled**

Each lot or sublot, which is to be examined, shall be sampled separately.

3.3. **Precautions to be taken**

In the course of sampling and preparation of the samples, precautions shall be taken to avoid any changes, which would affect the content of dioxins and dioxin-like PCBs, adversely affect the analytical determination or make the aggregate samples unrepresentative.

3.4. **Incremental samples**

As far as possible incremental samples shall be taken at various places distributed throughout the lot or sublot. Departure from such procedure shall be recorded in the record provided for under part 3.8 of this Annex.

3.5. **Preparation of the aggregate sample**

The aggregate sample shall be made up by combining the incremental samples. It shall be at least 1 kg unless not practical, e.g. when a single package has been sampled.

3.6. **Replicate samples**

The replicate samples for enforcement, defence and reference purposes shall be taken from the homogenised aggregate sample, unless such procedure conflicts with Member States' rules as regard the rights of the food business operator. The size of the laboratory samples for enforcement shall be sufficient to allow at least for duplicate analyses.

3.7. **Packaging and transmission of samples**

Each sample shall be placed in a clean, inert container offering adequate protection from contamination, from loss of analytes by adsorption to the internal wall of the container and against damage in transit. All necessary precautions shall be taken to avoid any change in composition of the sample, which might arise during transportation or storage.

3.8. **Sealing and labelling of samples**

Each sample taken for official use shall be sealed at the place of sampling and identified following the rules of the Member States.

A record shall be kept of each sampling, permitting each lot to be identified unambiguously and giving the date and place of sampling together with any additional information likely to be of assistance to the analyst.

4. SAMPLING PLANS

The sampling method applied shall ensure that the aggregate sample is representative for the (sub)lot that is to be controlled.

4.1. **Division of lots into sublots**

Large lots shall be divided into sublots on condition that the sublot can be separated physically. For products traded in large bulk consignments (e.g. vegetable oils) Table 1 shall apply. For other products Table 2 shall apply. Taking into account that the weight of the lot is not always an exact multiple of the weight of the sublots, the weight of the sublot may exceed the mentioned weight by a maximum of 20 %.

Table 1

Subdivision of lots into sublots for products traded in bulk consignments

Lot weight (ton)	Weight or number of sublots
≥ 1 500	500 tonnes
> 300 and < 1 500	3 sublots
≥ 50 and ≤ 300	100 tonnes
< 50	—

Table 2

Subdivision of lots into sublots for other products

Lot weight (ton)	Weight or number of sublots
≥ 15	15-30 tonnes
< 15	—

4.2. **Number of incremental samples**

The aggregate sample uniting all incremental samples shall be at least 1 kg (see part 3.5 of this Annex).

The minimum number of incremental samples to be taken from the lot or sublot shall be as given in Tables 3 and 4.

In the case of bulk liquid products the lot or sublot shall be thoroughly mixed insofar as possible and insofar it does not affect the quality of the product, by either manual or mechanical means immediately prior to sampling. In this case, a homogeneous distribution of contaminants is assumed within a given lot or sublot. It is therefore sufficient to take three incremental samples from a lot or sublot to form the aggregate sample.

The incremental samples shall be of similar weight. The weight of an incremental sample shall be at least 100 grams.

Departure from this procedure must be recorded in the record provided for under part 3.8 of this Annex. In accordance with the provisions of Commission Decision 97/747/EC of 27 October 1997 fixing the levels and frequencies of sampling provided for by Council Directive 96/23/EC for the monitoring of certain substances and residues thereof in certain animal products [1], the aggregate sample size for hen eggs is at least 12 eggs (for bulk lots as well for lots consisting of individual packages, Tables 3 and 4).

[1] OJ L 303, 6.11.1997, p. 12.

Table 3

Minimum number of incremental samples to be taken from the lot or sublot

Weight or volume of lot/sublot (in kg or litre)	Minimum number of incremental samples to be taken
< 50	3
50 to 500	5
> 500	10

If the lot or sublot consists of individual packages or units, then the number of packages or units which shall be taken to form the aggregate sample is given in Table 4.

Table 4

Number of packages or units (incremental samples) which shall be taken to form the aggregate sample if the lot or sublot consists of individual packages or units

Number of packages or units in the lot/sublot	Number of packages or units to be taken
1 to 25	at least 1 package or unit
26 to 100	about 5 %, at least 2 packages or units
> 100	about 5 %, at maximum 10 packages or units

4.3. **Specific provisions for the sampling of lots containing whole fishes of comparable size and weight**

Fishes are considered as being of comparable size and weight in case the difference in size and weight does not exceed about 50 %.

The number of incremental samples to be taken from the lot are defined in Table 3. The aggregate sample uniting all incremental samples shall be at least 1 kg (see point 3.5).

— In case the lot to be sampled contains small fishes (individual fishes weighing < about 1 kg), the whole fish is taken as incremental sample to form the aggregate sample. In case the resulting aggregate sample weighs more than 3 kg, the incremental samples may consist of the middle part, weighing each at least 100 grams, of the fishes forming the aggregate sample. The whole part to which the maximum level is applicable is used for homogenisation of the sample.

The middle part of the fish is where the centre of gravity is. This is located in most cases at the dorsal fin (in case the fish has a dorsal fin) or halfway between the gill opening and the anus.

— In case the lot to be sampled contains larger fishes (individual fishes weighing more than about 1 kg), the incremental sample consists of the middle part of the fish. Each incremental sample weighs at least 100 grams.

For fishes of intermediate size (about 1 to 6 kg) the incremental sample is taken as a slice of the fish from backbone to belly in the middle part of the fish.

For very large fishes (e.g. > about 6 kg), the incremental part is taken from the right side (frontal view) dorso-lateral muscle meat in the middle part of the fish. In case the taking of such a piece of the middle part of the fish would result in a significant economic damage, taking of three incremental samples of at least 350 grams each may be considered as being sufficient, independently of the size of the lot or alternatively an equal part of the muscled meat close to the tail part and the muscle meat close to the head part of one fish may be taken to form the incremental sample being representative for the level of dioxins in the whole fish.

4.4. **Sampling of lots of fish containing whole fishes of different size and/or weight**

— The provisions of point 4.3 as regards sample constitution are applicable.

— In case a size or weight class/category is predominant (about 80 % or more of the batch), the sample is taken from fishes with the predominant size or weight. This sample is to be considered as being representative for the whole batch.

— In case no particular size or weight class/category predominates, then it must be ensured that the fishes selected for the sample are representative for the consignment. Specific guidance for such cases is provided in 'Guidance document for the sampling of lots of fish containing whole fishes of different size and/or weight ([1]).'

4.5. **Sampling at retail stage**

Sampling of foodstuffs at retail stage shall be done where possible in accordance with the sampling provisions set out in part 4.2 of this Annex.

Where this is not possible, an alternative method of sampling at retail stage may be used provided that it ensures sufficient representativeness for the sampled lot or sublot.

5. COMPLIANCE OF THE LOT OR SUBLOT WITH THE SPECIFICATION

The lot is accepted if the analytical result of a single analysis does not exceed the respective maximum level of dioxins and the sum of dioxins and dioxin-like PCBs as laid down in Regulation (EC) No 1881/2006 taking into account the measurement uncertainty.

The lot is non-compliant with the maximum level as laid down in Regulation (EC) No 1881/2006, if the upperbound ([2]) analytical result, confirmed by duplicate analysis ([3]), exceeds the maximum level beyond reasonable doubt taking into account the measurement uncertainty.

The taking into account of the measurement uncertainty may be done according to one of the following approaches:

— by calculating the expanded uncertainty, using a coverage factor of 2 which gives a level of confidence of approximately 95 %. A lot or sublot is non-compliant if the measured value minus U is above the established permitted level. In case of a separate determination of dioxins and dioxin-like-PCBs the sum of the estimated expanded uncertainty of the separate analytical results of dioxins and dioxin-like PCBs has to be used for the sum of dioxins and dioxin-like PCBs,

— by establishing the decision limit (CCα) according to the provisions of Commission Decision 2002/657/EC of 12 August 2002 implementing Council Directive 96/23/EC concerning the performance of analytical methods and the interpretation of results ([4]) (point 3.1.2.5 of the Annex — the case of substances with established permitted level) a lot or sublot is non-compliant if the measured value is equal to or above the CCα.

The present interpretation rules apply for the analytical result obtained on the sample for official control. In case of analysis for defence or referee purposes, the national rules apply.

([1]) http://ec.europa.eu/food/food/chemicalsafety/contaminants/dioxins_en.htm

([2]) The concept of 'upperbound' requires using the limit of quantification for the contribution of each non-quantified congener to the Toxic Equivalent (TEQ).
The concept of 'lowerbound' requires using zero for the contribution of each non-quantified congener to the TEQ.
The concept of 'mediumbound' requires using half of the limit of quantification calculating the contribution of each non-quantified congener to the TEQ.

([3]) The duplicate analysis is necessary to exclude the possibility of internal cross-contamination or an accidental mix-up of samples. The first analysis, taking into account the measurement uncertainty is used for verification of compliance.
In case the analysis is performed in the frame of a dioxin contamination incident, confirmation by duplicate analysis might be omitted in case the samples selected for analysis are through traceability linked to the dioxin contamination incident.

([4]) OJ L 221, 17.8.2002, p. 8. Decision as amended by Decision 2004/25/EC (OJ L 6, 10.1.2004, p. 38).

ANNEX II

SAMPLE PREPARATION AND REQUIREMENTS FOR METHODS OF ANALYSIS USED IN OFFICAL CONTROL OF THE LEVELS OF DIOXINS (PCDD/PCDF) AND DIOXIN-LIKE PCBS IN CERTAIN FOODSTUFFS

1. FIELD OF APPLICATION

The requirements set out in this Annex shall be applied where foodstuffs are analysed for the official control of the levels of dioxins (polychlorinated dibenzo-p-dioxins (PCDD) and polychlorinated dibenzofurans (PCDF)) and dioxin-like PCBs.

Monitoring for the presence of dioxins in foodstuffs may be performed by a strategy involving a screening method in order to select those samples with levels of dioxins and dioxin-like PCBs that are less than 25 % below or exceed the maximum level. The concentration of dioxins and sum of dioxins and dioxin-like PCBs in those samples with significant levels needs to be determined/confirmed by a confirmatory method.

Screening methods are methods that are used to detect the presence of dioxins and dioxin-like PCBs at the level of interest. These methods shall have a capacity for a high sample throughput and are used to sift large numbers of samples for potential positives. They shall be specifically designed to avoid false negatives.

Confirmatory methods are methods that provide full or complementary information enabling the dioxins and dioxin-like PCBs to be identified and quantified unequivocally at the level of interest.

2. BACKGROUND

The concentrations of the individual substances in a given sample shall be multiplied by their respective Toxic Equivalency Factor (TEF), as established by the World Health Organisation and listed in the Appendix to this Annex, and subsequently summed to give the total concentration of dioxin-like compounds expressed as Toxic Equivalents (TEQs).

For the purposes of this Regulation, the accepted specific limit of quantification of an individual congener shall be the concentration of an analyte in the extract of a sample which produces an instrumental response at two different ions to be monitored with an S/N (signal/noise) ratio of 3:1 for the less sensitive signal and fulfilment of the basic requirements such as e.g. retention time, isotope ratio according to the determination procedure as described in EPA method 1613 revision B.

3. QUALITY ASSURANCE REQUIREMENTS TO BE COMPLIED WITH FOR SAMPLE PREPARATION

— Measures must be taken to avoid cross-contamination at each stage of the sampling and analysis procedure.

— The samples must be stored and transported in glass, aluminium, polypropylene or polyethylene containers. Traces of paper dust must be removed from the sample container. Glassware shall be rinsed with solvents, certified to be free from dioxins or previously controlled for the presence of dioxins.

— The sample storage and transportation has to be performed in a way that maintains the integrity of the foodstuff sample.

— Insofar as relevant, finely grind and mix thoroughly each laboratory sample using a process that has been demonstrated to achieve complete homogenisation (e.g. ground to pass a 1 mm sieve); samples have to be dried before grinding if moisture content is too high.

— Perform a blank analysis by carrying out the entire analytical procedure omitting only the sample.

— Sample weight used for the extraction must be sufficient to fulfil the requirements with respect to sensitivity.

— The specific sample preparation procedures used for the products under consideration shall be validated according to internationally accepted guidelines.

— In the case of fish, the skin has to be removed as the maximum level applies to muscle meat without skin. However it is necessary that all remaining rests of muscle meat and fat tissue at the inner side of the skin are carefully and completely scraped of from the skin and that these rests of muscle meat and fat tissue are added to the sample to be analysed.

4. REQUIREMENTS FOR LABORATORIES

— Laboratories shall demonstrate the performance of a method in the range of the level of interest, e.g. 0,5x, 1x and 2x the level of interest with an acceptable coefficient of variation for repeated analysis. For details of acceptance criteria, see part 5.

— Limit of quantification for a confirmatory method shall be in the range of about one fifth of the level of interest.

— Regular blank controls and spiking experiments or analysis of control samples (preferably, if available, certified reference material) shall be performed as internal quality control measures.

— Laboratory proficiency shall be proved by the continuous successful participation in interlaboratory studies for the determination of dioxins and dioxin-like PCBs in the relevant feed/food matrices.

— In accordance with the provisions of Regulation (EC) No 882/2004, laboratories shall be accredited by a recognised body operating in accordance with ISO Guide 58 to ensure that they are applying analytical quality assurance. Laboratories shall be accredited following the EN ISO/IEC 17025 standard.

5. REQUIREMENTS TO BE MET BY ANALYTICAL PROCEDURE FOR DIOXINS AND DIOXIN-LIKE PCBs

Basic requirements for acceptance of analytical procedures:

— *High sensitivity and low limits of detection*. For PCDDs and PCDFs, detectable quantities have to be in the picogram TEQ (10^{-12}g) range because of extreme toxicity of some of these compounds. PCBs are known to occur at higher levels than the PCDDs and PCDFs. For most PCB congeners sensitivity in the nanogram (10^{-9}g) range is already sufficient. However, for the measurement of the more toxic dioxin-like PCB congeners (in particular non-ortho substituted congeners), the same sensitivity must be reached as for the PCDDs and PCDFs.

— *High selectivity (specificity)*. A distinction is required for PCDDs, PCDFs and dioxin-like PCBs from a multitude of other, coextracted and possibly interfering compounds present at concentrations up to several orders of magnitude higher than those of the analytes of interest. For gas chromatography/mass spectrometry (GC/MS) methods a differentiation among various congeners is necessary, such as between toxic (e.g. the seventeen 2,3,7,8-substituted PCDDs and PCDFs and dioxin-like PCBs) and other congeners. Bioassays shall be able to determine TEQ values selectively as the sum of PCDDs, PCDFs and dioxin-like PCBs.

— *High accuracy (trueness and precision)*. The determination shall provide a valid estimate of the true concentration in a sample. High accuracy (accuracy of the measurement: the closeness of the agreement between the result of a measurement with the true or assigned value of the measurand) is necessary to avoid the rejection of a sample analysis result on the basis of poor reliability of the estimate of TEQ. Accuracy is expressed as trueness (difference between the mean value measured for an analyte in a certified material and its certified value, expressed as percentage of this value) and precision (RSD_R relative standard deviation calculated from results generated under reproducibility conditions).

Screening methods may comprise bioassays and GC/MS methods; confirmatory methods are high-resolution gas chromatography/high resolution mass spectrometry (HRGC/HRMS) methods. Following criteria have to be complied with on total TEQ value:

	Screening methods	Confirmatory methods
False negative rate	< 1 %	
Trueness		– 20 % to + 20 %
Precision (RSD_R)	< 30 %	< 15 %

6. SPECIFIC REQUIREMENTS FOR GC/MS METHODS TO BE COMPLIED WITH FOR SCREENING OR CONFIRMATORY PURPOSES

— Addition of ^{13}C-labelled 2,3,7,8-chlorine substituted internal PCDD/F standards and of ^{13}C-labelled internal dioxin-like PCB standards must be carried out at the very beginning of the analytical method e.g. prior to extraction in order to validate the analytical procedure. At least one congener for each of the tetra to octa-chlorinated homologous groups for PCDD/F and at least one congener for each of the homologous groups for dioxin-like PCBs must be added (alternatively, at least one congener for each mass spectrometric selected ion recording function used for monitoring PCDD/F and dioxin-like PCBs). There shall be clear preference, certainly in case of confirmatory methods, of using all 17 ^{13}C-labelled 2,3,7,8-substituted internal PCDD/F standards and all 12 ^{13}C-labelled internal dioxin-like PCB standard.

Relative response factors shall also be determined for those congeners for which no ^{13}C-labelled analogue is added by using appropriate calibration solutions.

— For foodstuffs of plant origin and foodstuffs of animal origin containing less than 10 % fat, the addition of the internal standards is mandatory prior to extraction. For foodstuffs of animal origin containing more than 10 % fat, the internal standards may be added either before extraction or after fat extraction. An appropriate validation of the extraction efficiency shall be carried out, depending on the stage at which internal standards are introduced and on whether results are reported on product or fat basis.

— Prior to GC/MS analysis, 1 or 2 recovery (surrogate) standard(s) must be added.

— Control of recovery is necessary. For confirmatory methods, the recoveries of the individual internal standards shall be in the range of 60 to 120 %. Lower or higher recoveries for individual congeners, in particular for some hepta- and octa- chlorinated dibenzodioxins and dibenzofurans, are acceptable on the condition that their contribution to the TEQ value does not exceed 10 % of the total TEQ value (based on sum of PCDD/F and dioxin-like PCBs). For screening methods, the recoveries shall be in the range of 30 to 140 %.

— Separation of dioxins from interfering chlorinated compounds such as non-dioxin-like PCBs and chlorinated diphenyl ethers shall be carried out by suitable chromatographic techniques (preferably with a florisil, alumina and/or carbon column).

— Gaschromatographic separation of isomers shall be sufficient (< 25 % peak to peak between 1,2,3,4,7,8-HxCDF and 1,2,3,6,7,8-HxCDF).

— Determination shall be performed according to EPA Method 1613 revision B: Tetra- through octa-chlorinated dioxins and furans by isotope dilution HRGC/HRMS or another with equivalent performance criteria.

— The difference between upperbound level and lower bound level shall not exceed 20 % for foodstuffs with a dioxin contamination of about 1 pg WHO-TEQ/g fat (based on the sum of PCDD/PCDF and dioxin-like PCBs). For foodstuffs with a low fat content, the same requirements for contamination levels of about 1 pg WHO-TEQ/g product have to be applied. For lower contamination levels, for example 0,50 pg WHO-TEQ/g product, the difference between upperbound and lowerbound level may be in the range of 25 % to 40 %.

7. SCREENING METHODS OF ANALYSIS

7.1. **Introduction**

Different analytical approaches may be performed using a screening method: a pure screening approach and a quantitative approach.

Screening approach

The response of samples is compared to that of a reference sample at the level of interest. Samples with a response less than the reference are declared negative, those with a higher response are suspected positives. Requirements:

— A blank and a reference sample(s) have to be included in each test series, which is extracted and tested at the same time under identical conditions. The reference sample must show a clearly elevated response in comparison to a blank.

— Extra reference samples 0,5x and 2x the level of interest shall be included to demonstrate the proper performance of the test in the range of interest for the control of the level of interest.

— When testing other matrices, the suitability of the reference sample(s) has to be demonstrated, preferentially by including samples shown by HRGC/HRMS to contain a TEQ level around that of the reference sample or else a blank spiked at this level.

— Since no internal standards can be used in bioassays, tests on repeatability shall be carried out to obtain information on the standard deviation within one test series. The coefficient of variation shall be below 30 %.

— For bioassays, the target compounds, possible interferences and maximum tolerable blank levels shall be defined.

Quantitative approach

The quantitative approach requires standard dilution series, duplicate or triplicate clean up and measuring as well as blank and recovery controls. The result may be expressed as TEQ, thereby assuming that the compounds responsible for the signal correspond to the TEQ principle. This can be performed by using TCDD (or a dioxin/furan/dioxin-like PCB standard mixture) to produce a calibration curve to calculate the TEQ level in the extract and thus in the sample. The result is subsequently corrected for the TEQ level calculated for a blank sample (to account for impurities from solvents and chemicals used), and a recovery (calculated from the TEQ level in a quality control sample around the level of interest). It is essential to note that part of the apparent recovery loss may be due to matrix effects and/or differences between the TEF values in the bioassays and the official TEF values set by the WHO.

7.2. **Requirements for methods of analysis used for screening**

— GC/MS methods of analysis and bioassays may be used for screening. For GC/MS methods the requirements as laid down in point 6 are to be used. For cell based bioassays specific requirements are laid down in part 7.3 of this Annex and for kit-based bioassays in part 7.4 of this Annex.

— Information on the number of false-positive and false-negative results of a large set of samples below and above the maximum level or action level is necessary, in comparison to the TEQ content as determined by a confirmatory method of analysis. Actual false negative rates shall be under 1 %. The rate of false positive samples shall be low enough to make the use of a screening tool advantageous.

— Positive results have always to be confirmed by a confirmatory method of analysis (HRGC/HRMS). In addition, samples from a wide TEQ-range shall be confirmed by HRGC/HRMS (approximately 2 % to 10 % of the negative samples). Information on correspondence between bioassay and HRGC/HRMS results shall be made available.

7.3. **Specific requirements for cell based bioassays**

— When performing a bioassay, every test run requires a series of reference concentrations of TCDD or a dioxin/furan/dioxin-like PCB mixture (full dose-response curve with a $R^2 > 0{,}95$). However, for screening purposes an expanded low level curve for analysing low level samples may be used.

— A TCDD reference concentration (about 3x limit of quantification) on a quality control sheet shall be used for the outcome of the bioassay over a constant time period. An alternative may be the relative response of a reference sample in comparison to the TCDD calibration line since the response of the cells may depend on many factors.

— Quality control (QC) charts for each type of reference material shall be recorded and checked to make sure the outcome is in accordance with the stated guidelines.

— In particular for quantitative calculations, the induction of the sample dilution used must be within the linear portion of the response curve. Samples above the linear portion of the response curve must be diluted and re-tested. Therefore, at least 3 or more dilutions at one time shall be tested.

— The percent standard deviation shall not be above 15 % in a triplicate determination for each sample dilution and not above 30 % between three independent experiments.

— The limit of detection may be set as 3x the standard deviation of the solvent blank or of the background response. Another approach is to apply a response that is above the background (induction factor 5x the solvent blank) calculated from the calibration curve of the day. The limit of quantification may be set as 5 to 6x the standard deviation of the solvent blank or of the background response or to apply a response that is above the background (induction factor 10x the solvent blank) calculated from the calibration curve of the day.

7.4. **Specific requirements for kit based bioassays**

— It shall be ensured that the kit-based bioassays have sufficient sensitivity and reliability to be applied for food.

— Manufacturer's instructions for sample preparation and analyses have to be followed.

— Test kits shall not be used after the expiration date.

— Materials or components designed for use with other kits shall not be used.

— Test kits shall be kept within the specified range of storage temperature and used at the specified operating temperature.

— The limit of detection for immunoassays is determined as 3 x the standard deviation, based on 10 replicate analysis of the blank, to be divided by the slope value of the linear regression equation.

— Reference standards shall be used for tests at the laboratory to make sure that the responsiveness to the standard is within an acceptable range.

8. REPORTING OF THE RESULT

Insofar as the used analytical procedure makes it possible, the analytical results shall contain the levels of the individual PCDD/F and PCB congeners and be reported as lowerbound, upperbound and medium-bound in order to include a maximum of information in the reporting of the results and thereby enabling the interpretation of the results according to specific requirements.

The report shall also include the lipid content of the sample as well the method used for lipid extraction.

The recoveries of the individual internal standards must be made available in case the recoveries are outside the range mentioned in point 6, in case the maximum level is exceeded and in other cases upon request.

As the uncertainty of measurement is to be taken into account when deciding about the compliance of a sample, this parameter shall also be made available. Thus, analytical results shall be reported as x +/– U whereby x is the analytical result and U is the expanded measurement uncertainty using a coverage factor of 2 which gives a level of confidence of approximately 95 %. In case of a separate determination of dioxins and dioxin-like-PCBs the sum of the estimated expanded uncertainty of the separate analytical results of dioxins and dioxin-like PCBs has to be used for the sum of dioxins and dioxin-like PCBs.

If the uncertainty of measurement is taken into account by applying CCα (as described in Annex I, part 5), this parameter shall be reported.

The results shall be expressed in the same units and with (at least) the same number of significant figures as the maximum levels laid down in Regulation (EC) No 1881/2006.

Appendix to Annex II

Table WHO TEFs for human risk assessment based on the conclusions of the World Health Organisation meeting in Stockholm, Sweden, 15-18 June 1997 (Van den Berg et al., (1998) Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, PCDFs for Humans and for Wildlife. *Environmental Health Perspectives, 106(12), 775)*

Congener	TEF value	Congener	TEF value
Dibenzo-p-dioxins (PCDDs)		**'Dioxin-like' PCBs Non-ortho PCBs + Mono-ortho PCBs**	
2,3,7,8-TCDD	1		
1,2,3,7,8-PeCDD	1	*Non-ortho PCBs*	
1,2,3,4,7,8-HxCDD	0,1	PCB 77	0,0001
1,2,3,6,7,8-HxCDD	0,1	PCB 81	0,0001
1,2,3,7,8,9-HxCDD	0,1	PCB 126	0,1
1,2,3,4,6,7,8-HpCDD	0,01	PCB 169	0,01
OCDD	0,0001	*Mono-ortho PCBs*	
Dibenzofurans (PCDFs)		PCB 105	0,0001
2,3,7,8-TCDF	0,1	PCB 114	0,0005
1,2,3,7,8-PeCDF	0,05	PCB 118	0,0001
2,3,4,7,8-PeCDF	0,5	PCB 123	0,0001
1,2,3,4,7,8-HxCDF	0,1	PCB 156	0,0005
1,2,3,6,7,8-HxCDF	0,1	PCB 157	0,0005
1,2,3,7,8,9-HxCDF	0,1	PCB 167	0,00001
2,3,4,6,7,8-HxCDF	0,1	PCB 189	0,0001
1,2,3,4,6,7,8-HpCDF	0,01		
1,2,3,4,7,8,9-HpCDF	0,01		
OCDF	0,0001		

Abbreviations used: 'T' = tetra; 'Pe' = penta; 'Hx' = hexa; 'Hp' = hepta; 'O' = octa; 'CDD' = chlorodibenzodioxin; 'CDF' = chlorodibenzofuran; 'CB' = chlorobiphenyl.

COMMISSION REGULATION (EC) No 1884/2006

of 19 December 2006

amending Regulations (EC) No 2402/96, (EC) No 2449/96 and (EC) No 2390/98 as regards the administration of import tariff quotas for manioc and sweet potatoes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 96/317/EC of 13 May 1996 concerning the conclusion of the results of consultations with Thailand under GATT Article XXIII [1], and in particular Article 3 thereof,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations [2], and in particular Article 1(1) thereof,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 [3], and in particular Article 5 thereof,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [4], and in particular Articles 9(2) and 12(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences [5] applies to import licences for tariff quota periods starting from 1 January 2007.

(2) The common rules adopted by Regulation (EC) No 1301/2006, in particular the detailed rules for applications for import licences, the status of applicants and the issue of licenses, limiting the period of validity of import licences to the final day of the tariff quota period, apply without prejudice to additional conditions or derogations laid down by the sectoral regulations. To avoid a situation whereby differing rules continue to exist in certain sectoral regulations, Commission Regulations (EC) No 2402/96 of 17 December 1996 opening and setting administrative rules for certain annual tariff quotas for sweet potatoes and manioc starch [6], (EC) No 2449/96 of 18 December 1996 opening and providing for the administration of certain annual tariff quotas for products covered by CN codes 0714 10 91, 0714 10 99, 0714 90 11 and 0714 90 19 originating in certain third countries other than Thailand [7] and (EC) No 2390/98 of 5 November 1998 (EC) No 1706/98 as regards the arrangements for importing certain cereal substitute products and processed cereal and rice products originating in the African, Caribbean and Pacific States or in the overseas countries and territories and repealing Regulation (EEC) No 2245/90 [8] should be amended with a view to specifying the serial numbers of each quota and subquota and redefining the specific rules which apply, in particular to the drawing-up of licence applications, their issue, their period of validity and the notification of information to the Commission.

(3) These measures should be applied from 1 January 2007, which is the date from which the measures provided for in Regulation (EC) No 1301/2006 apply.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2402/96 is amended as follows:

1. The following paragraphs are added to Article 1:

'The following serial numbers are assigned to the quotas referred to in the first paragraph:

— serial number 09.4014 for the quota referred to in point 1,

[1] OJ L 122, 22.5.1996, p. 15.
[2] OJ L 146, 20.6.1996, p. 1.
[3] OJ L 348, 21.12.2002, p. 5.
[4] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Regulation Commission (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[5] OJ L 238, 1.9.2006, p. 13.
[6] OJ L 327, 18.12.1996, p. 14. Regulation as amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).
[7] OJ L 333, 21.12.1996, p. 14. Regulation as last amended by Regulation (EC) No 777/2004.
[8] OJ L 297, 6.11.1998, p. 7. Regulation as amended by Regulation (EC) No 777/2004.

— serial number 09.4013 for the quota referred to in point 2,

— serial number 09.4064 for the 10 000 tonnes of manioc starch referred to in point 3 and the 500 tonnes of manioc starch not reserved for Thailand in accordance with point 4,

— serial number 09.4065 for the 10 000 tonnes of manioc starch reserved for Thailand and referred to in point 4.'

2. The following Article 1a is added before Title 1:

'*Article 1a*

Commission Regulations (EC) No 1291/2000 (*), (EC) No 1342/2003 (**) and (EC) No 1301/2006 (***) shall apply, save as otherwise provided for in this Regulation.

(*) OJ L 152, 24.6.2000, p. 1.
(**) OJ L 189, 29.7.2003, p. 12.
(***) OJ L 238, 1.9.2006, p. 13.'

3. Article 4(2) is replaced by the following:

'2. Section 24 of the licences shall contain one of the entries shown in Annex III.'

4. Article 7 is replaced by the following:

'*Article 7*

No later than 18.00 (Brussels time) on the working day following that set by Article 3 for the lodging of applications, Member States shall send the Commission the following information:

(a) the total quantities covered by licence applications, by origin and product code,

(b) for products originating in the People's Republic of China, the reference numbers of the export certificate and the name of the vessel.'

5. Article 8 is replaced by the following:

'*Article 8*

1. Import licences shall be issued on the fourth working day following the notification referred to in Article 7.

2. Licences shall be valid throughout the Community from their actual day of issue pursuant to Article 23(2) of Regulation (EC) No 1291/2000 to the end of the fourth month following, but only up to the end of the year of issue.'

6. Article 12 is replaced by the following:

'*Article 12*

No later than 18.00 (Brussels time) on the working day following that set by Article 9 for the lodging of applications, Member States shall send the Commission the following information:

(a) the total quantities covered by licence applications, by origin and product code;

(b) the reference numbers of the export certificates issued by the Thai authorities and the corresponding quantities, and the name of the vessel.'

7. Article 13 is replaced by the following:

'*Article 13*

1. Import licences shall be issued on the fourth working day following the notification referred to in Article 12.

2. Licences shall be valid throughout the Community from their actual day of issue pursuant to Article 23(2) of Regulation (EC) No 1291/2000 to the end of the third month following, but only up to the end of the year of issue.'

8. Annex III, shown in Annex I to this Regulation, is added.

Article 2

Regulation (EC) No 2449/96 is amended as follows:

1. The following paragraphs are added to Article 1:

'The quotas referred to in points 1, 2 and 3 of the first subparagraph shall bear the serial numbers 09.4009, 09.4011 and 09.4010 respectively.

For the quota referred to in point 4 of the first subparagraph, the serial numbers 09.4021 and 09.4012 shall be allocated to the part of the quota reserved for the import of products of a kind used for human consumption (2 000 tonnes) and to the other part which is not so reserved (30 000 tonnes) respectively.

Commission Regulations (EC) No 1291/2000 (*), (EC) No 1342/2003 (**) and (EC) No 1301/2006 (***) shall apply, save as otherwise provided for in this Regulation.

(*) OJ L 152, 24.6.2000, p. 1.
(**) OJ L 189, 29.7.2003, p. 12.
(***) OJ L 238, 1.9.2006, p. 13.'

2. Article 6(b) is replaced by the following:

'(b) in section 24, one of the entries shown in Annex IV.'

3. Article 8 is amended as follows:

(a) Paragraph 3 is replaced by the following:

'3. On the day following the day on which applications are lodged, and no later than 13.00 on the Thursday following the deadline for lodging applications laid down in the first subparagraph of paragraph 1, Member States shall send the Commission the following information:

(a) the total quantities covered by licence applications, by origin and product code;

(b) the number of the certificate of origin submitted and the total quantity entered in the original document or an extract thereof;

(c) the reference numbers of the export certificates issued by the Indonesian or Chinese authorities and the corresponding quantities, and the name of the vessel.'

(b) Paragraph 4 is replaced by the following:

'Import licences shall be issued on the fourth working day following the notification referred to in paragraph 3.'

4. In the third subparagraph of Article 10(2), the last sentence is replaced by the following:

'Section 20 of additional import licences shall also contain one of the entries shown in Annex V.'

5. Article 11 is amended as follows:

(a) The second paragraph is replaced by the following:

'Licences issued pursuant to this Regulation shall be valid throughout the Community for 60 days from their actual day of issue pursuant to Article 23(2) of Regulation (EC) No 1291/2000.'

(b) The following paragraph is added:

'The final day of validity of the import licences may not exceed 31 December of the year of issue.'

6. Annexes IV and V, as shown in Annex II to this Regulation, are added.

Article 3

Regulation (EC) No 2390/98 is amended as follows:

1. In Article 1, the following paragraph is added:

'Commission Regulations (EC) No 1291/2000 (*), (EC) No 1342/2003 (**) and EC (No) 1301/2006 (***) shall apply, save as otherwise provided for in this Regulation.

(*) OJ L 152, 24.6.2000, p. 1.
(**) OJ L 189, 29.7.2003, p. 12.
(***) OJ L 238, 1.9.2006, p. 13.'

2. Article 2(2) is replaced by the following:

'2. Section 24 of additional import licences shall contain one of the entries shown in Annex I.'

3. Article 4 is replaced by the following:

'Article 4

The following special provisions shall apply to the release for free circulation in the French overseas departments pursuant to Article 3(4) of Regulation (EC) No 2286/2002 of products falling within CN codes 0714 10 91 and 0714 90 11:

(a) monitoring of these imports shall be carried out under the same conditions as those applicable to the import quotas, under serial number 09.4192;

(b) licence applications shall be for a quantity not exceeding 500 tonnes per applicant;

(c) section 8 of licence applications and import licences shall contain the name of the ACP State or the overseas country or territory in which the product originates. Licences shall entail an obligation to import from that country or territory;

(d) section 24 of additional import licences shall contain one of the entries shown in Annex II.'

4. Article 5 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. No later than 13.00 (Brussels time) on the working day following the day on which the licence application is lodged, Member States shall send the Commission the total quantities covered by licence applications, by origin and product code.'

(b) Paragraph 3 is deleted.

(c) Paragraph 4 is replaced by the following:

'4. Import licences shall be issued on the fourth working day following the notification referred to in Article 5(2).'

(d) Paragraph 5 is replaced by the following:

'5. Licences shall be valid exclusively for release for free circulation in the French overseas departments from their actual day of issue pursuant to Article 23(2) of Regulation (EC) No 1291/2000 to the end of the second month following, but only up to the end of the year of issue.'

5. Annexes I and II, as shown in Annex III to this Regulation, are added.

Article 4

This Regulation shall enter into force on 1 January 2007.

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

Done at Brussels, 19 December 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

'ANNEX III

— *In Bulgarian:*	Освобождаване от мито [член 4 от Регламент (ЕО) № 2402/96]
— *In Spanish:*	Exención del derecho de aduana [artículo 4 del Reglamento (CE) nº 2402/96]
— *In Czech:*	Osvobozené od cla [čl. 4 nařízení (ES) č. 2402/96]
— *In Danish:*	Fritagelse for toldsatser (artikel 4 i forordning (EF) nr. 2402/96)
— *In German:*	Zollfrei (Artikel 4 der Verordnung (EG) Nr. 2402/96)
— *In Estonian:*	Tollimaksuvaba (määruse (EÜ) nr 2402/96 artikkel 4)
— *In Greek:*	Απαλλαγή από τον τελωνειακό δασμό [άρθρο 4 του κανονισμου (ΕΚ) αριθ. 2402/96]
— *In English:*	Exemption from customs duty (Article 4 of Regulation (EC) No 2402/96)
— *In French:*	exemption du droit de douane [article 4 du règlement (CE) nº 2402/96]
— *In Italian:*	Esenzione dal dazio doganale [articolo 4 del regolamento (CE) n. 2402/96]
— *In Latvian:*	Atbrīvošana no muitas nodevas (regulas (EK) Nr. 2402/96 4. pants)
— *In Lithuanian:*	Atleidimas nuo muito mokesčio (reglamento (EB) Nr. 2402/96 4 straipsnis)
— *In Hungarian:*	Vámmentesség [2402/96/EK rendelet 4. cikk]
— *In Dutch:*	Vrijgesteld van douanerecht (artikel 4 van Verordening (EG) nr. 2402/96)
— *In Polish:*	Zwolnienie z należności celnych (Art. 4 rozporządzenia (WE) nr 2402/96)
— *In Portuguese:*	Isenção de direito aduaneiro [artigo 4.º do Regulamento (CE) n.º 2402/96]
— *In Romanian:*	Scutit de taxe vamale (articolul 4 din Regulamentul (CE) nr. 2402/96)
— *In Slovak:*	Oslobodenie od cla (článok 4 nariadenia (ES) č. 2402/96)
— *In Slovenian:*	Oproščenocarinske dajatve (člen 4 Uredbe (ES) št. 2402/96)
— *In Finnish:*	Tullivapaa (asetuksen (EY) N:o 2402/96 4 artikla)
— *In Swedish:*	Tullfri (artikel 4 i förordning (EG) nr 2402/96)'

ANNEX II

'ANNEX IV

— *In Bulgarian:* Мита, ограничени до 6 % *ad valorem* [Регламент (ЕО) № 2449/96]

— *In Spanish:* Derechos de aduana limitados al 6 % ad valorem [Reglamento (CE) nº 2449/96]

— *In Czech:* Clo limitované 6 % *ad valorem* (nařízení (ES) č. 2449/96)

— *In Danish:* Toldsatsen begrænses til 6 % af værdien (Forordning (EF) nr. 2449/96)

— *In German:* Beschränkung des Zolls auf 6 % des Zollwerts (Verordnung (EG) Nr. 2449/96)

— *In Estonian:* Väärtuseline tollimaks piiratud 6 protsendini (määrus (EÜ) nr 2449/96)

— *In Greek:* Τελωνειακός δασμός κατ' ανώτατο όριο 6 % κατ' αξία [Κανονισμός (ΕΚ) αριθ. 2449/96]

— *In English:* Customs duties limited to 6 % ad valorem (Regulation (EC) No 2449/96)

— *In French:* Droits de douane limités à 6 % ad valorem [règlement (CE) nº 2449/96]

— *In Italian:* Dazi doganali limitati al 6 % ad valorem [Regolamento (CE) n. 2449/96]

— *In Latvian:* Muitas nodokļi nepārsniedz 6 % *ad valorem* (Regula (EK) Nr. 2449/96)

— *In Lithuanian:* Muito mokestis neviršija 6 % *ad valorem* (Reglamentas (EB) Nr. 2449/96)

— *In Hungarian:* Mérsékelt, 6 %-os értékvám (2449/96/EK rendelet)

— *In Dutch:* Douanerechten beperkt tot 6 % ad valorem (Verordening (EG) nr. 2449/96)

— *In Polish:* Należności celne ograniczone do 6 % ad valorem (Rozporządzenie (WE) nr 2449/96)

— *In Portuguese:* Direitos aduaneiros limitados a 6 % *ad valorem* [Regulamento (CE) n.º 2449/96]

— *In Romanian:* Taxe vamale limitate la 6 % ad valorem (Regulamentul (CE) nr. 2449/96)

— *In Slovak:* Dovozné clo so stropom 6 % *ad valorem* (nariadenie (ES) č. 2449/96)

— *In Slovenian:* Omejitev carinskih dajatev na 6 % *ad valorem* (Uredba (ES) št. 2449/96)

— *In Finnish:* Arvotulli rajoitettu 6 prosenttiin (asetus (EY) N:o 2449/96)

— *In Swedish:* Tullsatsen begränsad till 6 % av värdet (Förordning (EG) nr 2449/96)

ANNEX V

— *In Bulgarian:* Допълнителна лицензия, член 10, параграф 2 от Регламент (ЕО) № 2449/96

— *In Spanish:* Certificado complementario, apartado 2 del artículo 10 del Reglamento (CE) nº 2449/96

— *In Czech:* Licence pro dodatečné množství, čl. 10 odst. 2 nařízení (ES) č. 2449/96

— *In Danish:* Supplerende licens, forordning (EF) nr. 2449/96, artikel 10, stk. 2

— *In German:* Zusätzliche Lizenz — Artikel 10 Absatz 2 der Verordnung (EG) Nr. 2449/96

— *In Estonian:* Lisakoguse litsents, määruse (EÜ) nr 2449/96 artikli 10 lõige 2

— *In Greek:* Συμπληρωματικό πιστοποιητικό — Άρθρο 10 παράγραφος 2 του κανονισμού (ΕΚ) αριθ. 2449/96

— *In English:* Licence for additional quantity, Article 10(2) of Regulation (EC) No 2449/96

— *In French:* Certificat complémentaire, règlement (CE) nº 2449/96, article 10, paragraphe 2

— *In Italian:* Titolo complementare, regolamento (CE) n. 2449/96, articolo 10, paragrafo 2

— *In Latvian:* Atļauja par papildu daudzumu, Regulas (EK) Nr. 2449/96 10. panta 2. punkts

— *In Lithuanian:* Papildomoji licencija, Reglamento (EB) Nr. 2449/96 10 straipsnio 2 dalis

— *In Hungarian:* Kiegészítő engedély, 2449/96/EK rendelet 10. cikk (2) bekezdés

— *In Dutch:* Aanvullend certificaat — artikel 10, lid 2, van Verordening (EG) nr. 2449/96

— *In Polish:* Uzupełniające pozwolenie, rozporządzenie (WE) nr 2449/96 art. 10 ust. 2

— *In Portuguese:* Certificado complementar, n.º 2 do artigo 10.º do Regulamento (CE) n.º 2449/96

— *In Romanian:* Licență complementară, articolul 10 alineatul (2) din Regulamentul (CE) nr. 2449/96

— *In Slovak:* Dodatočné povolenie, článok 10 ods. 2 nariadenia (ES) č. 2449/96

— *In Slovenian:* Dovoljenje za dodatne količine, člen 10(2), Uredba (ES) št. 2449/96

— *In Finnish:* Lisätodistus, asetuksen (EY) N:o 2449/96 10 artiklan 2 kohta

— *In Swedish:* Kompletterande licens, artikel 10.2 i förordning (EG) nr 2449/96'

ANNEX III

'ANNEX I

— *In Bulgarian:*	— продукт АКТБ:
	— освобождаване от мито
	— Регламент (ЕО) № 2286/2002, член 1, параграф 3
— *In Spanish:*	— Producto ACP:
	— exención del derecho de aduana
	— apartado 3 del artículo 1 del Reglamento (CE) nº 2286/2002
— *In Czech:*	— Produkt AKT:
	— osvobozené od cla
	— nařízení (ES) č. 2286/2002 čl. 1 ods. 3
— *In Danish:*	— AVS-produkt:
	— toldfritagelse
	— forordning (EF) nr. 2286/2002: artikel 1, stk. 3
— *In German:*	— Erzeugnis AKP:
	— Zollfrei
	— Verordnung (EG) Nr. 2286/2002, Artikel 1 Absatz 3
— *In Estonian:*	— AKV riikide toode:
	— Tollimaksuvaba
	— Määruse (EÜ) nr 2286/2002 artikli 1 lõige 3
— *In Greek:*	— Προϊόν ΑΚΕ:
	— Απαλλαγή από δασμούς
	— Κανονισμός (ΕΚ) αριθ. 2286/2002 άρθρο 1 παράγραφος 3
— *In English:*	— ACP product:
	— exemption from customs duty
	— Regulation (EC) No 2286/2002, Article 1(3)
— *In French:*	— produit ACP:
	— exemption du droit de douane
	— règlement (CE) nº 2286/2002, article 1, paragraphe 3

— *In Italian:* — prodotto ACP:

— esenzione dal dazio doganale

— regolamento (CE) n. 2286/2002, articolo 1, paragrafo 3

— *In Latvian:* — AĀK produkts:

— atbrīvots no muitas nodevas

— Regulas (EK) Nr. 2286/2002 1. panta 3. daļa

— *In Lithuanian:* — AKR produktas:

— atleistas nuo muito mokesčio

— Reglamento (EB) Nr. 2286/2002 1 straipsnio 3 dalis

— *In Hungarian:* — AKCS-termék:

— vámmentes

— 2286/2002/EK rendelet, 1. cikk (3) bekezdés

— *In Dutch:* — Product ACS:

— vrijgesteld van douanerecht

— Verordening (EG) nr. 2286/2002: artikel 1, lid 3

— *In Polish:* — Produkt AKP:

— zwolnienie z należności celnych

— art. 1 ust. 3 rozporządzenia (WE) nr 2286/2002

— *In Portuguese:* — produto ACP:

— isenção do direito aduaneiro

— Regulamento (CE) n.º 2286/2002, n.º 3 do artigo 1.º

— *In Romanian:* — produs ACP:

— scutit de taxe vamale

— Regulamentul (CE) nr. 2286/2002, articolul 1 alineatul (3)

— *In Slovak:* — Výrobok zo štátov AKP

— oslobodenie od cla

— nariadenie (ES) č. 2286/2002, článok 1 odsek 3

— *In Slovenian:* — AKP proizvodi

— oproščeni carinskih dajatev

— Uredba (ES) št. 2286/2002, člen 1(3)

— *In Finnish:* — AKT-maista:

— Tullivapaa

— asetuksen (EY) N:o 2286/2002 1 artiklan 3 kohta

— *In Swedish:* — AVS-produkt:

— Tullfri

— Förordning (EG) nr 2286/2002 artikel 1.3

ANNEX II

— *In Bulgarian:* — продукт АКТБ/ОСТ:

— освобождаване от мито

— Регламент (ЕО) № 2286/2002, член 3, параграф 4

— важи изключително за пускане в свободно обръщение в отвъдморските департаменти

— *In Spanish:* — Producto ACP/PTU:

— exención del derecho de aduana

— apartado 4 del artículo 3 del Reglamento (CE) nº 2286/2002

— exclusivamente válido para el despacho a libre práctica en los departamentos de Ultramar

— *In Czech:* — AKT/ZZÚ produkty:

— osvobozeno od cla

— nařízení (ES) č. 2286/2002 čl. 3 ods. 4

— platné výhradně pro vydání do volného oběhu v zámořských zemích a územích

— *In Danish:* — AVS/OLT-produkt:

— toldfritagelse

— forordning (EF) nr. 2286/2002: artikel 3, stk. 4

— gælder udelukkende for overgang til fri omsætning i de oversøiske departementer

— *In German:* — Erzeugnis AKP/ÜLG:

— Zollfrei

— Verordnung (EG) Nr. 2286/2002, Artikel 3 Absatz 4

— gilt ausschließlich für die Abfertigung zum freien Verkehr in den französischen überseeischen Departements

— *In Estonian:* — AKV/ÜMT riikide toode:

— Tollimaksuvaba

— Määruse (EÜ) nr 2286/2002 artikli 3 lõige 4

— Jõus ainult vabasse ringlusesse laskmiseks ülemeremaadel ja–territooriumitel

— *In Greek:* — Προϊόν ΑΚΕ/ΥΧΕ:

— Απαλλαγή από δασμούς

— Κανονισμός (ΕΚ) αριθ. 2286/2002 άρθρο 3 παράγραφος 4

— Ισχύει αποκλειστικά για μία θέση σε ελεύθερη κυκλο-φορία στα Υπερπόντια Διαμερίσματα

— *In English:* — ACP/OCT product:

— exemption from customs duty

— Regulation (EC) No 2286/2002, Article 3(4)

— valid exclusively for release for free circulation in the overseas departments

— *In French:* — produit ACP/PTOM:

— exemption du droit de douane

— règlement (CE) n° 2286/2002, article 3, paragraphe 4

— exclusivement valable pour une mise en libre pratique dans les départements d'outre-mer

— *In Italian:* — prodotto ACP/PTOM:

— esenzione dal dazio doganale

— regolamento (CE) n. 2286/2002, articolo 3, paragrafo 4

— valido esclusivamente per l'immissione in libera pratica nei DOM

— *In Latvian:* — AĀK/AZT produkts:

— atbrīvots no muitas nodevas

— Regulas (EK) Nr. 2286/2002 3. panta 4. daļa

— ir derīgs laišanai brīvā apgrozībā vienīgi aizjūru teritorijās

— *In Lithuanian:* — AKR/UŠT produktas:

— atleistas nuo muito mokesčio

— Reglamento (EB) Nr. 2286/2002 3 straipsnio 4 dalis

— galioja leidimui į laisvą apyvartą tiktai užjūrio šalių teritorijose

— *In Hungarian:* — AKCS/TOT-termék:

— vámmentes

— 2286/2002/EK rendelet, 3. cikk (4) bekezdés

— kizárólag a tengerentúli területeken történő szabad forgalomba bocsátás esetén érvényes

— *In Dutch:* — Product ACS/LGO:

— vrijgesteld van douanerecht

— Verordening (EG) nr. 2286/2002: artikel 3, lid 4

— geldt uitsluitend voor het in het vrije verkeer brengen in de Franse overzeese departementen

— *In Polish:* — Produkt AKP/KTZ:

— zwolnienie z należności celnych

— art. 3 ust. 4 rozporządzenia (WE) nr 2286/2002

— ważne wyłącznie dla wprowadzenia do wolnego obrotu w departamentach zamorskich

— *In Portuguese:* — produto ACP/PTU:

— isenção do direito aduaneiro

— Regulamento (CE) n.º 2286/2002, n.º 4 do artigo 3.º

— válido exclusivamente para uma introdução em livre prática nos departamentos ultramarinos

— *In Romanian:* — produs ACP/TTPM:

— scutit de taxe vamale

— Regulamentul (CE) nr. 2286/2002, articolul 3 alineatul (4)

— valabil doar pentru punerea în liberă circulație în departamentele de peste mări

— *In Slovak:* — výrobok zo štátov AKP/ZKU

— oslobodenie od cla

— nariadenie (ES) č. 2286/2002, článok 3 odsek 4

— platné výhradne pre uvoľnenie do voľného obehu v zámorských krajinách a územiach

— *In Slovenian:* — AKP/ČDO

— oproščene carinskih dajatev

— Uredba (ES) št. 2286/2002, člen 3(4)

— Veljavna samo za sproščenje prostega pretoka v prekomorskih področjih

— *In Finnish:* — AKT-maista/Merentakaisista maista ja merentakaisilta alueilta peräisin oleva tuote:

— Tullivapaa

— asetuksen (EY) N:o 2286/2002 3 artiklan 4 kohta

— voimassa ainoastaan merentakaisilla alueilla vapaaseen liikkeeseen laskemiseksi

— *In Swedish:* — AVS/ULT-produkt:

— Tullfri

— Förordning (EG) nr 2286/2002 artikel 3.4

— Uteslutande avsedd för övergång till fri omsättning i de utomeuropeiska länderna och territorierna'

COMMISSION REGULATION (EC) No 1885/2006

of 19 December 2006

opening and providing for the administration of a Community tariff quota for 2007 for manioc originating in Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations [1], and in particular Article 1(1) thereof,

Whereas:

(1) During the World Trade Organisation multilateral trade negotiations, the Community undertook to open a tariff quota restricted to 21 million tonnes of products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand per four-year period, with customs duty reduced to 6 %. This quota must be opened and administered by the Commission.

(2) It is necessary to keep an administration system which ensures that only products originating in Thailand may be imported under the quota. The issue of an import licence should therefore continue to be subject to the presentation of an export certificate issued by the Thai authorities, based on the model notified to the Commission by Thailand.

(3) Since imports to the Community market of the products concerned have traditionally been administered on the basis of a calendar year, this system should be retained. A quota must therefore be opened for 2007.

(4) The import of products covered by CN codes 0714 10 10, 0714 10 91 and 0714 10 99 is subject to the presentation of an import licence in accordance with Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [2], and with Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [3].

(5) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences [4] applies to import licences for tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed rules for applications for import licences, the status of applicants and the issue of licences. It limits the period of validity of import licences to the final day of the tariff quota period and applies without prejudice to additional conditions or derogations laid down by the sectoral regulations.

(6) In the light of past experience and taking into account that the Community concession provides for an overall quantity of 21 000 000 tonnes over four years with an annual maximum of 5 500 000 tonnes, it is advisable to maintain measures which, under certain conditions, either facilitate the release for free circulation of quantities of products exceeding those given in the import licences, or allow the difference between the figure given in the import licences and the smaller figure actually imported to be carried forward.

(7) In order to ensure the correct application of the agreement, a system of strict and systematic controls is needed that take account of the information given on the Thai export certificates and the Thai authorities' procedures for issuing export certificates.

(8) Where the quantities requested exceed the quantities available, a mechanism should be provided for reducing the quantities in order not to exceed the annual maximum laid down.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

[1] OJ L 146, 20.6.1996, p. 1.

[2] OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

[3] OJ L 189, 29.7.2003, p. 12. Regulation as last amended by Regulation (EC) No 1713/2006.

[4] OJ L 238, 1.9.2006, p. 13.

HAS ADOPTED THIS REGULATION:

CHAPTER I

OPENING OF THE QUOTA

Article 1

1. An import tariff quota for 5 500 000 tonnes of manioc falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand is hereby opened for the period 1 January to 31 December 2007.

The customs duty applicable is hereby fixed at 6 % *ad valorem*.

The serial number of the quota shall be 09.4008.

2. The products referred to in paragraph 1 shall benefit from the arrangements provided for in this Regulation on condition that they are imported under import licences issued subject to the submission of a certificate for export to the European Community issued by the Department of Foreign Trade, Ministry of Commerce, Government of Thailand, hereinafter referred to as an 'export certificate'.

3. Regulations (EC) Nos 1291/2000, 1342/2003 and 1301/2006 shall apply, save as otherwise provided for in this Regulation.

CHAPTER II

EXPORT CERTIFICATES

Article 2

1. There shall be one original and at least one copy of the export certificate, to be made out on a form of which a specimen is given in Annex I.

The size of the form shall be approximately 210 × 297 millimetres. The original shall be made out on white paper having a printed yellow guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

2. Export certificates shall be completed in English.

3. The original and copies of export certificates shall be completed in typescript or in handwriting. In the latter case, they must be completed in ink and in block capitals.

4. Each export certificate shall bear a pre-printed serial number; in the upper section it shall also bear a certificate number. The copies shall bear the same numbers as the original.

Article 3

1. Export certificates shall be valid for 120 days from the date of issue. The date of issue of the certificate shall be included in the period of validity of the certificate.

For the certificate to be valid, its different sections must be properly completed and duly authenticated in accordance with paragraph 2. In the 'shipped weight' section, the quantity must be written out in full and also given in figures.

2. The export certificate shall be duly authenticated if it indicates the date of issue and bears the stamp of the issuing body and the signature of the authorised person or persons.

CHAPTER III

IMPORT LICENCES

Article 4

Applications for an import licence for products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand shall be submitted to the competent authorities in the Member States accompanied by the original of the export certificate.

The original of the export certificate shall be retained by the body which issues the import licence. However, where the application for an import licence relates to only a part of the quantity indicated on the export certificate, the issuing body shall indicate on the original the quantity for which it was used and, after affixing its stamp, shall return it to the party concerned.

Only the quantity indicated under 'shipped weight' on the export certificate shall be taken into consideration for the issue of the import licence.

Article 5

Where it is found that the quantities actually unloaded in the case of a given consignment are greater than the total figuring on the import licence or licences issued for this consignment, the competent authorities who issued the import licence or licences concerned shall, at the request of the importer, communicate to the Commission by electronic means, case by case and as soon as possible, the number or numbers of the Thai export certificates, the number or numbers of the import licences, the excess quantity concerned and the name of the cargo vessel.

The Commission shall contact the Thai authorities so that new export certificates may be drawn up.

Until the new certificates have been drawn up, the excess quantities may not be released for free circulation under this Regulation unless new import licences are presented for the quantities concerned.

New import licences shall be issued on the terms laid down in Article 10.

Article 6

Notwithstanding the third paragraph of Article 5, where it is found that the quantities actually unloaded in the case of a given consignment do not exceed the quantities covered by the import licence or licences presented by more than 2 %, the competent authorities of the Member State of release for free circulation shall, at the importer's request, authorise the release for free circulation of the surplus quantities in return for payment of a customs duty with a ceiling of 6 % *ad valorem* and the lodging by the importer of a security of an amount equal to the difference between the duty laid down in the Common Customs Tariff and the duty paid.

The security shall be released upon presentation to the competent authorities of the Member State of release for free circulation of an additional import licence for the quantities concerned. The security referred to in Article 15(2) of Regulation (EC) No 1291/2000 or Article 8 of this Regulation shall not be required for additional licences.

Additional import licences shall be issued on the terms laid down in Article 10 and on presentation of one or more new export certificates issued by the Thai authorities.

Section 20 of additional import licences shall contain one of the entries given in Annex II.

Except in cases of force majeure, the security shall be forfeit for quantities for which an additional import licence is not presented within four months from the date of acceptance of the declaration of release for free circulation referred to in the first paragraph. It shall be forfeit in particular for quantities for which no additional import licence has been issued under Article 10(1).

After the competent authority has entered the quantity on the additional import licence and authenticated the entry, when the security provided for in the first paragraph is released, the licence shall be returned to the issuing body as soon as possible.

Article 7

Applications for import licences under this Regulation may be submitted in all Member States and licences issued shall be valid throughout the Community.

The fourth indent of the first subparagraph of Article 5(1) of Regulation (EC) No 1291/2000 shall not apply to imports carried out under this Regulation.

Article 8

Notwithstanding Article 12 of Regulation (EC) No 1342/2003, the security relating to the import licences provided for in this Regulation shall be EUR 5 per tonne.

Article 9

1. Section 8 of applications for import licences and of the licences themselves shall be marked 'Thailand'.

2. Import licences shall contain:

(a) in section 24, one of the entries given in Annex III;

(b) in section 20, the following information:

(i) the name of the cargo vessel as given in the Thai export certificate;

(ii) the number and date of the Thai export certificate.

3. The import licence shall be accepted in support of a declaration of release for free circulation only if it is shown, in particular by a copy of the bill of lading presented by the party concerned, that the products for which release for free circulation is requested have been transported to the Community by the vessel referred to in the import licence.

4. Subject to Article 6 of this Regulation and notwithstanding Article 8(4) of Regulation (EC) No 1291/2000, the quantity released for free circulation may not exceed that shown in sections 17 and 18 of the import licence. The figure 0 shall be entered to that effect in section 19 of the said licence.

Article 10

1. Where applications for licences exceed the quantity laid down in Article 1, the Commission shall fix an award coefficient to be applied to the quantities applied for or decide to reject applications.

2. Import licences shall be issued on the fifth working day following the day on which the application is lodged, subject to any measure the Commission might adopt pursuant to paragraph 1.

3. Where an award coefficient is fixed pursuant to paragraph 1, applications may be withdrawn within 10 working days of publication of that coefficient.

Where applications are withdrawn, licences issued in accordance with paragraph 2 shall be returned.

When an application is withdrawn, the security shall be released. The security shall also be released when an application is rejected.

4. Where the conditions governing the issue of the import licence have not been complied with, the Commission may, where necessary, and following consultation with the Thai authorities, adopt appropriate measures.

Article 11

Notwithstanding Article 6 of Regulation (EC) No 1342/2003, the last day of the period of validity of the import licence shall correspond to the last day of the period of validity of the corresponding export certificate plus 30 days. However, in accordance with Article 8 of Regulation (EC) No 1301/2006, this last day of validity may not be later than 31 December 2007.

Article 12

1. The Member States shall send the Commission each working day, solely by electronic means, using the forms made available to them by the Commission and under the conditions provided for in the computer system set up by the Commission, the following information:

(a) the quantity for which each import licence is requested, with the indication, where appropriate, 'additional import licence';

(b) the number of the export certificate submitted, as indicated in the upper section of the certificate;

(c) the date of issue of the export certificate;

(d) the total quantity for which the export certificate was issued.

2. No later than the end of the first six months of 2008, the authorities responsible for issuing import licences shall send the Commission, by electronic means, under the conditions referred to in paragraph 1, a complete list of quantities not taken up as endorsed on the back of the import licences, the name of the cargo vessel, the number of the contract for transport to the European Community and the numbers of the export certificates in question.

CHAPTER IV

FINAL PROVISIONS

Article 13

This Regulation shall enter into force on 1 January 2007.

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

Done at Brussels, 19 December 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

SERIAL No

ORIGINAL

DEPARTMENT OF FOREIGN TRADE

MINISTRY OF COMMERCE
GOVERNMENT OF THAILAND

EXPORT CERTIFICATE SUBJECT TO REGULATION (EC) No 2248/2004

SPECIAL FORM FOR PRODUCTS FALLING WITHIN CN CODES 0714 10 10, 0714 10 91, 0714 10 99

EXPORT CERTIFICATE No	
EXPORT PERMIT No	

1. EXPORTER (NAME, ADDRESS AND COUNTRY)		2. FIRST CONSIGNEE (NAME, ADDRESS AND COUNTRY)	
NAME		NAME	
ADDRESS		ADDRESS	
COUNTRY		COUNTRY	
3. SHIPPED PER		4. COUNTRY/COUNTRIES OF DESTINATION IN EU	

5. TYPE OF MANIOC PRODUCTS	6. WEIGHT (TONNES)	7. PACKING
☐ CN CODE 0714 10 10	SHIPPED WEIGHT	☐ IN BULK
☐ CN CODE 0714 10 91		☐ ..... BAGS
☐ CN CODE 0714 10 99	ESTIMATED NET WEIGHT	☐ OTHERS

WE HEREBY CERTIFY THAT THE ABOVEMENTIONED PRODUCTS ARE PRODUCED IN AND ARE EXPORTED FROM THAILAND

DEPARTMENT OF FOREIGN TRADE

DATE

.....
NAME AND SIGNATURE OF AUTHORISED OFFICIAL AND STAMP

THIS CERTIFICATE IS VALID FOR 120 DAYS FROM THE DATE OF ISSUE

FOR USE BY EU AUTHORITIES:

ANNEX II

— *In Bulgarian:* Допълнителна лицензия, член 6 от Регламент (ЕО) № 1885/2006,

— *In Spanish:* Certificado complementario, artículo 6 del Reglamento (CE) nº 1885/2006,

— *In Czech:* Licence pro dodatečné množství, čl. 6 nařízení (ES) č. 1885/2006,

— *In Danish:* Supplerende licens, forordning (EF) nr. 1885/2006, artikel 6,

— *In German:* Zusätzliche Lizenz — Artikel 6 der Verordnung (EG) Nr. 1885/2006,

— *In Estonian:* Lisakoguse litsents, määruse (EÜ) nr 1885/2006 artikkel 6,

— *In Greek:* Συμπληρωματικό πιστοποιητικό — Άρθρο 6 του κανονισμού (ΕΚ) αριθ. 1885/2006,

— *In English:* Licence for additional quantity, Article 6 of Regulation (EC) No 1885/2006,

— *In French:* Certificat complémentaire, règlement (CE) nº 1885/2006, article 6,

— *In Italian:* Titolo complementare, regolamento (CE) n. 1885/2006 articolo 6,

— *In Latvian:* Atļauja par papildu daudzumu, Regulas (EK) Nr. 1885/2006 6. pants,

— *In Lithuanian:* Papildomoji licencija, Reglamento (EB) Nr. 1885/2006 6 straipsnio,

— *In Hungarian:* Kiegészítő engedély, 1885/2006/EK rendelet 6. cikk,

— *In Dutch:* Aanvullend certificaat — artikel 6 van Verordening (EG) nr. 1885/2006,

— *In Polish:* Uzupełniające pozwolenie, rozporządzenie (WE) nr 1885/2006 art. 6,

— *In Portuguese:* Certificado complementar, artigo 6.º do Regulamento (CE) n.º 1885/2006,

— *In Romanian:* Licență pentru cantitatea excedentară, articolul 6 din Regulamentul nr. 1885/2006,

— *In Slovakian:* Dodatočné povolenie, článok 6 nariadenia (ES) č. 1885/2006,

— *In Slovenian:* Dovoljenje za dodatne količine, člen 6, Uredba (ES) št. 1885/2006,

— *In Finnish:* Lisätodistus, asetus (EY) N:o 1885/2006 6 artikla,

— *In Swedish:* Kompletterande licens, artikel 6 i förordning (EG) nr 1885/2006.

ANNEX III

— *In Bulgarian:* Мита, ограничени до 6 % *ad valorem* [Регламент (ЕО) № 1885/2006],

— *In Spanish:* Derechos de aduana limitados al 6 % *ad valorem* [Reglamento (CE) nº 1885/2006],

— *In Czech:* Clo limitované 6 % *ad valorem* (nařízení (ES) č. 1885/2006),

— *In Danish:* Toldsatsen begrænses til 6 % af værdien (forordning (EF) nr. 1885/2006),

— *In German:* Beschränkung des Zolls auf 6 % des Zollwerts (Verordnung (EG) Nr. 1885/2006),

— *In Estonian:* Väärtuseline tollimaks piiratud 6 protsendini (määrus (EÜ) nr 1885/2006),

— *In Greek:* Τελωνειακός δασμός κατ' ανώτατο όριο 6 % κατ' αξία [κανονισμός (ΕΚ) αριθ. 1885/2006],

— *In English:* Customs duties limited to 6 % *ad valorem* (Regulation (EC) No 1885/2006),

— *In French:* Droits de douane limités á 6 % *ad valorem* [règlement (CE) nº 1885/2006],

— *In Italian:* Dazi doganali limitati al 6 % *ad valorem* [regolamento (CE) n. 1885/2006],

— *In Latvian:* Muitas nodokļi nepārsniedz 6 % *ad valorem* (Regula (EK) Nr. 1885/2006),

— *In Lithuanian:* Muito mokestis neviršija 6 % *ad valorem* (Reglamentas (EB) Nr. 1885/2006),

— *In Hungarian:* Mérsékelt, 6 %-os értékvám (1885/2006/EK rendelet),

— *In Dutch:* Douanerechten beperkt tot 6 % ad valorem (Verordening (EG) nr. 1885/2006),

— *In Polish:* Należności celne ograniczone do 6 % ad valorem (Rozporządzenie (WE) nr 1885/2006),

— *In Portuguese:* Direitos aduaneiros limitados a 6 % *ad valorem* [Regulamento (CE) n.º 1885/2006],

— *In Romanian:* Taxe vamale limitate la 6 % *ad valorem* (Regulamentul (CE) nr. 1885/2006),

— *In Slovakian:* Dovozné clo so stropom 6 % *ad valorem* (Nariadenie (ES) č. 1885/2006),

— *In Slovenian:* Omejitev carinskih dajatev na 6 % *ad valorem* (Uredba (ES) št. 1885/2006),

— *In Finnish:* Arvotulli rajoitettu 6 prosenttiin (asetus (EY) N:o 1885/2006),

— *In Swedish:* Tullsatsen begränsad till 6 % av värdet (förordning (EG) nr 1885/2006).

COMMISSION REGULATION (EC) No 1886/2006

of 19 December 2006

establishing a prohibition of fishing for Greenland halibut in NAFO zone 3LMNO by vessels flying the flag of Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2006.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2006.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2006 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the 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.

Done at Brussels, 19 December 2006.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p 59.
[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).
[3] OJ L 16, 20.1.2006, p. 1. Regulation as last amended by Regulation (EC) No 1782/2006 (OJ L 345, 8.12.2006 p. 10).

ANNEX

No	53
Member State	Spain
Stock	GHL/N3LMNO.
Species	Greenland halibut (*Reinhardtius hippoglossoides*)
Zone	NAFO 3 LMNO
Date	30 November 2006

COMMISSION REGULATION (EC) No 1887/2006

of 19 December 2006

reopening the fishery for common sole in ICES zone III a, III b, c, d (EC waters) by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2006.

(2) On 6 October 2006 Sweden notified the Commission, pursuant to Article 21(2) of Regulation (EEC) No 2847/93, that it would close the fishery for common sole in the waters of ICES zone III a, III b, c, d for its vessels from 6 October 2006.

(3) On 1 November 2006 the Commission, pursuant to Article 21(3) of Regulation (EEC) No 2847/93 and Article 26(4) of Regulation (EC) No 2371/2002, adopted Regulation (EC) No 1631/2006 prohibiting fishing for common sole in the waters of ICES zone III a, III b, c, d by vessels flying the flag of Sweden or registered in Sweden, with effect from the same date.

(4) According to the information received by the Commission from the Swedish authorities, a quantity of common sole is still available in the Swedish quota in area III a, III b, c, d. Consequently, fishing for common sole in these waters by vessels flying the flag of Sweden or registered in Sweden should be authorised.

(5) This authorisation should take effect on 24 November 2006, in order to allow the quantity of common sole in question to be finished before the end of the current year.

(6) Commission Regulation (EC) No 1631/2006 should be repealed with effect from 24 November 2006,

HAS ADOPTED THIS REGULATION:

Article 1

Repeal

Regulation (EC) No 1631/2006 is hereby repealed.

Article 2

Entry into force

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

It shall apply from 24 November 2006.

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

Done at Brussels, 19 December 2006.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p 59.
[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).
[3] OJ L 16, 20.1.2006, p. 1. Regulation as last amended by Regulation (EC) No 1782/2006 (OJ L 345, 8.12.2006, p. 10).

ANNEX

No	64
Member State	Sweden
Stock	SOL/3A/BCD
Species	Common sole (*Solea solea*)
Zone	III a, III b, c, d (EC waters)
Date	24 November 2006 — Reopen

COMMISSION REGULATION (EC) No 1888/2006

of 19 December 2006

imposing a provisional anti-dumping duty on imports of certain prepared or preserved sweetcorn in kernels originating in Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. **Initiation**

(1) On 13 February 2006, a complaint concerning imports of certain prepared and preserved sweetcorn in kernels originating in Thailand was lodged by the Association Européenne des Transformateurs de Maïs Doux (AETMD) (the complainant) on behalf of producers representing a major proportion of the total Community production of prepared or preserved sweetcorn, in this case around 70 %.

(2) This complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) On 28 March 2006, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union* [2].

2. **Parties concerned by the proceeding**

(4) The Commission officially advised the exporting producers, importers, users known to be concerned and their associations, consumers associations, the representatives of the exporting country and the Community producers of the initiation of the anti-dumping proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(5) In view of the large number of exporting producers, Community producers and importers involved in this investigation, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(6) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers, Community producers and importers and representatives acting on their behalf were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned within 15 days of the date of publication of the notice of initiation.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

[2] OJ C 75, 28.3.2006, p. 6.

(7) After examination of the information submitted, and given the relatively low number of positive replies for further cooperation from both Community producers and importers, it was decided that sampling was only necessary with regard to exporters. The Commission selected a sample of four exporting producers.

(8) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest. To this end, the Commission sent questionnaires to the exporting producers selected in the sample. For the Community producers and the importers, the Commission sent questionnaires to all the companies that made themselves known within the deadlines set out in the notice of initiation, as sampling was finally found unnecessary. The Commission also sent questionnaires to all Community retailers mentioned in the complaint and to consumers' associations.

(9) Replies were received from five Thai exporting producers, from six Community producers, from one unrelated importer in the Community and from one retailer in the Community. The Thai authorities made also their views known.

(10) Verification visits were carried out at the premises of the following companies:

(a) *Producers in the Community:*

— Bonduelle Conserve International SAS, Renescure, France,

— Bonduelle Nagykoros Kft., Nagykoros, Hungary,

— Compagnie Générale de Conserve SICA SA, Theix, France,

— Conserve Italia SCA, San Lazzaro di Savena, Italy;

(b) *Exporting producers in Thailand:*

— Malee Sampran Public Co., Ltd, Pathumthani,

— Karn Corn Co., Ltd, Bangkok,

— River Kwai International Food Industry Co., Ltd, Bangkok,

— Sun Sweet Co., Ltd, Chiangmai.

(11) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

3. **Investigation period**

(12) The investigation of dumping and injury covered the period from 1 January 2005 to 31 December 2005 ('investigation period' or 'IP'). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2002 to 31 December 2005 (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(13) The product concerned is sweetcorn (*Zea mays* var. *saccharata*) in kernels, prepared or preserved by vinegar or acetic acid, not frozen, normally declared within CN code ex 2001 90 30, and sweetcorn (*Zea mays* var. *saccharata*) in kernels prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006, normally declared within CN code ex 2005 80 00, originating in Thailand.

(14) The investigation has shown that, despite differences in the preservations, the different types of the product concerned all share the same basic biological and chemical characteristics and are basically used for the same purposes.

2. Like product

(15) The sweetcorn produced and sold in the Community by the Community industry and the sweetcorns produced and sold in Thailand were found to have essentially the same physical and chemical characteristics and the same basic uses of the sweetcorn produced in Thailand and sold for export to the Community. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Sampling

(16) As stated in recital 5 above, sampling was envisaged for exporting producers in Thailand in the notice of initiation. In total, 20 companies replied to the sampling questionnaire within the time limits and provided the requested information. However, one of these companies neither produced nor exported the product concerned since it was a domestic trader and not an exporting producer and therefore could not be considered when drawing up the sample. Furthermore, three companies did not export the product concerned to the Community during the IP. In total, 16 companies were considered as cooperating parties.

(17) The sample of exporters was selected in accordance with Article 17(1) of the basic Regulation, on the basis of the largest representative volume of exports from Thailand into the Community that could reasonably be investigated within the time available.

(18) In accordance with Article 17(2) of the basic Regulation, the Commission consulted the Thai authorities and the exporters on its intention to select a sample of four companies representing 52 % of Thai exports of the product concerned to the Community. The Thai authorities and some exporters objected to the sample chosen and requested that it included more companies. The Commission however considered that in order to reach the highest possible representativity of the sample taking into account the time limits of the investigation, it was appropriate to include only these four companies in the sample since (i) this allowed to cover a larger volume of exports and (ii) it was feasible to investigate these four companies within the time available.

2. Individual examination

(19) Requests for the determination of an individual dumping margin were submitted by the companies not selected in the sample. However, in view of the large number of requests and the large number of companies selected in the sample, it was considered that such individual examinations would be unduly burdensome within the meaning of Article 17(3) of the basic Regulation and would have prevented completion of the investigation in good time. The claims for determination of individual margins are therefore rejected.

(20) One of the non-sampled companies which had requested an individual margin contested the decision to not grant an individual examination. They argued that the sampled companies were not representative considering that small companies were not included in the sample and furthermore the sample did not reflect the geographical spread of the companies in Thailand. This company even submitted a complete questionnaire response within the deadline indicated in the notice of initiation. As set out in recital 18 above, the sample was considered representative based on the export volumes. In this respect, it should be noted that the fundamental criterion which was applied when selecting the sample in this investigation was the one related to volume (i.e. volume of exports to the Community in the case of exporting producers), rather than being based on the alternative criterion in Article 17(1) of the basic Regulation, i.e. using a sample which is statistically valid on the basis of information available at the time of selection. Furthermore, as stated in recital (18), it was not possible to investigate more companies since this would have rendered the investigation unduly burdensome and would have prevented completion of the investigation in good time. In these circumstances, the company's request to have an individual examination was rejected.

3. **Normal value**

(21) For the determination of normal value the Commission first established, for each of the exporting producers, whether their total domestic sales of the like product were representative in comparison with their total export sales to the Community. In accordance with Article 2(2), first sentence, of the basic Regulation, the domestic sales of the like product were found to be representative for only one of the sampled companies since the domestic sales volume of this company exceeded 5 % of its total export sales to the Community.

(22) The Commission subsequently identified for this company the types of the like product sold domestically which were identical or directly comparable to the types sold for export to the Community. For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community.

(23) The Commission subsequently examined whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers, of each exported product type.

(24) For those product types where more than 80 % by volume of sales on the domestic market were sold at a net sales price equal to or above the calculated cost of production, and where the weighted average sales price was equal to or higher than the cost of production, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question, irrespective of whether these sales were profitable or not.

(25) For those product types where at least 10 %, but no more than 80 %, by volume of sales on the domestic market were not below cost of production, normal value, by product type, was calculated as the weighted average of domestic sales prices which were found to be equal to or above cost of production only, of the type in question.

(26) For those product types where less than 10 %, by volume of sales, on the domestic market, were not below cost of production, it was considered that the product type concerned was not sold in the ordinary course of trade.

(27) For sales of product types not made in the ordinary course of trade, as well as for those product types which were not sold in representative quantities on the domestic market, normal value had to be constructed. For this company normal value was constructed in respect of around 80 % of the volume of sales to the Community.

(28) For these product types mentioned in recital 27, the normal value was constructed pursuant to Article 2(3) of the basic Regulation, by adding to the manufacturing cost of each product type exported to the Community a reasonable amount for selling, general and administrative (SG&A) costs and for profits. Pursuant to the chapeau of Article 2(6) of the basic Regulation, the amount of SG&A was established on the basis of the SG&A expenses incurred and profit realised by the company for domestic sales of the like product in the ordinary course of trade.

(29) For the other three sampled exporting producers, normal value had to be constructed pursuant to Article 2(3) of the basic Regulation since none of them had representative domestic sales. For all these exporting producers, normal value was constructed by adding to the cost of manufacturing of each type exported to the Community, corrected where appropriate as further explained in recital 32, a reasonable amount for selling, general and administrative (SG&A) expenses and profit. The SG&A expenses and profit could not be established on the basis of Article 2(6)(a) of the basic Regulation since only one company had representative domestic sales.

(30) For two companies, the SG&A expenses and profit were determined in accordance with Article 2(6)(b) as these exporters had representative sales, in the ordinary course of trade, of the same general category of products (i.e. other canned products including canned fruit products and canned baby corn).

(31) For the remaining company, the SG&A expenses and profit were determined in accordance with Article 2(6)(c) of the basic Regulation, on the basis of the weighted average of the SG&A expenses incurred and profit realised on sales of the same general category of products of the two companies with domestic sales of those products in the ordinary course of trade.

(32) Where appropriate, the costs of manufacturing and SG&A expenses reported were corrected before being used in the ordinary course of trade test and in constructing normal values.

4. **Export price**

(33) All sales of the exporting producers concerned were made directly to unrelated customers in the Community. For those sales, the export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of prices actually paid or payable by these independent customers in the Community.

(34) One exporter purchased a substantial part of the product concerned sold to the Community. It was claimed that these purchases should be regarded as part of a tolling system set in place by the company. However, the purchased finished goods were in fact produced entirely by other independent producers of the product concerned. Accordingly, only sales of the company's own production to the Community were taken into account when determining its dumping margin.

5. **Comparison**

(35) The comparison between normal value and export price was made on an ex-works basis. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which affect price comparability. Allowances for differences in, transport costs, ocean freight and insurance costs, handling costs, loading and ancillary costs, commissions, credit costs and bank charges relating to currency conversions were granted where applicable and justified, and duly adjusted where necessary.

(36) The two exporting producers referred to in recital (30) above claimed an adjustment for differences in the level of trade, pursuant to Article 2(10)(d)(i) and (ii) or, alternatively, Article 2(10)(k) of the basic Regulation. These exporting producers claimed that prices of own branded products are different from retailer branded products. Given that the exports to the Community were only of retailer branded products while the domestic sales of the general category of products included both own branded and retailer branded, an adjustment was therefore made under Article 2(10)(d) of the basic Regulation. The adjustment level has been estimated on the basis of the relationship of the profit margins obtained by the Community industry on their own branded products and on all products.

6. **Dumping margin**

(37) For the sampled exporting producers, individual dumping margins were established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation.

(38) On this basis, the provisional dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Company	Provisional dumping margin
Karn Corn	4,3 %
Malee Sampran	17,5 %
River Kwai	15,0 %
Sun Sweet	11,2 %

(39) For the cooperating companies not selected in the sample, the dumping margin was established on the basis of the weighted average dumping margin of the companies selected in the sample, pursuant to Article 9(6) of the basic Regulation. This weighted average dumping margin, expressed as a percentage of the cif Community frontier price, duty unpaid, is 13,2 %.

(40) For those exporting producers which did not cooperate, the dumping margin was established on the basis of facts available in accordance with Article 18 of the basic Regulation. To this end, the level of cooperation was first established. A comparison between Eurostat data concerning imports originating in Thailand and sampling replies showed that the level of cooperation was high (more than 92 %). Therefore, and since there were no indications that the non-cooperating companies were dumping at a lower level, it was considered appropriate to set the dumping margin for the remaining companies, which had not cooperated in the investigation, at the level of the highest dumping margin found for the companies included in the sample. This approach is in accordance with the standing practice of the Community institutions and was also considered necessary in order not to provide an incentive to non-cooperation. Therefore, the residual dumping margin was calculated at the rate of 17,5 %.

D. **INJURY**

1. **Community production and Community industry**

(41) Within the Community, the like product is manufactured by 18 producers. The output of these 18 Community producers is therefore deemed to constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

(42) Of these 18 producers, a total of six, being members of the complaining association, declared their interest in cooperating in the proceeding within the time limit set out in the notice of initiation and properly cooperated with the investigation. These six producers were found to account for a major proportion of the total Community production of the like product, in this case around 70 %. The six cooperating producers therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will be hereafter referred to as the 'Community industry'. The remaining 12 Community producers will be hereafter referred to as the 'other Community producers'. None of these 12 other Community producers opposed the complaint.

2. **Community consumption**

(43) Community consumption was established on the basis of the sales volumes of the Community industry's own production destined for the Community market, the import volumes data on the Community market obtained from Eurostat and, concerning the other Community producers, from information available from the mini-questionnaire intended for sampling or from the complaint.

(44) In the IP, the Community market for the product concerned and the like product was approximately at the same level as in 2002, i.e. around 330 000 tonnes. Consumption remained relatively stable throughout the period considered except for 2004, when it was 5 % higher than in 2002 and 2003.

	2002	2003	2004	IP
Total EC consumption (tonnes)	330 842	331 945	347 752	330 331
Index (2002 = 100)	*100*	*100*	*105*	*100*

Source: Investigation, Eurostat, complaint.

3. **Imports from the country concerned**

(a) *Volume*

(45) The volume of imports of the product concerned from the country concerned into the Community rose by 87 %, from around 22 000 tonnes in 2002 to around 42 000 tonnes in the IP. It rose by 58 % in 2003, by a further 40 percentage points in 2004, before declining by 11 percentage points in the IP.

	2002	2003	2004	IP
Volume of imports from Thailand (tonnes)	22 465	35 483	44 435	41 973
Index (2002 = 100)	*100*	*158*	*198*	*187*
Market share of imports from Thailand	6,8 %	10,7 %	12,8 %	12,7 %
Price of imports from Thailand (EUR/tonnes)	797	720	690	691
Index (2002 = 100)	*100*	*90*	*87*	*87*

Source: Eurostat.

(b) *Market share*

(46) The market share held by exporters in the country concerned increased by around 6 percentage points during the period considered, from 6,8 % in 2002 to 12,7 % in the IP. In detail, Thai exporters gained almost 4 percentage points in 2003, a further 2 percentage points in 2004 and practically stabilised at that level in the IP.

(c) *Prices*

(i) Price evolution

(47) Between 2002 and the IP, the average price of imports of the product concerned originating in the country concerned declined by 13 %. Specifically, prices declined by 10 % in 2003 and by a further 3 % in 2004, before stabilising at that price (i.e. around 690 EUR/tonne) in the IP.

(ii) Price undercutting

(48) A price comparison for similar product types was made between the exporting producers' and the Community industry's selling prices in the Community. To this end, Community industry's ex-works prices, net of all rebates and taxes have been compared with the cif Community frontier prices of exporting producers of the country concerned, duly adjusted for conventional duties, unloading and customs clearance costs. The comparison showed that during the IP the product concerned originating in the country concerned sold in the Community undercut the Community industry's prices by between 2 % and 10 %, depending on the exporting producer concerned, with the exception of two sampled exporting producers for which no undercutting was found. However, on a type-by-type basis it was found that in some instances, prices offered by the exporting producers concerned were significantly lower than the above average undercutting margins.

4. **Situation of the Community industry**

(49) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.

(50) This market is inter alia characterised by the existence of two sales channels, i.e. sales under the producer's own brand and sales under retailer's brand. Sales under the first channel will usually trigger higher selling costs intended notably for marketing and advertising, and will also command higher selling prices.

(51) The investigation evidenced that all imports from the cooperating Thai exporters pertained to the retailer's brand channel. It was considered appropriate to distinguish in the injury analysis between Community industry's sales under its own brand and under the retailer's brand wherever relevant, as competition from dumped imports is faced in the first place by Community industry's like products sold under the retailer's brand. This distinction was done in particular for the determination of sales volumes, sales prices and profitability. However, for the sake of completeness, totals (including both own brand and retailer's brand) are also shown and commented. During the IP, Community industry's sales under the retailer's brand accounted for around 63 % of the total Community industry's sales (own and retailer's brand).

(a) *Production*

(52) From a level of around 257 000 tonnes in 2002, the Community industry's production decreased almost steadily during the period considered. In the IP, it was 16 % lower than in 2002. Specifically, it declined by 6 % in 2003, increased slightly by 3 percentage points in 2004, before decreasing again sharply by 13 percentage points in the IP.

	2002	2003	2004	IP
Production (tonnes)	257 281	242 341	249 350	216 129
Index (2002 = 100)	*100*	*94*	*97*	*84*

Source: Investigation.

(b) *Capacity and capacity utilisation rates*

(53) Production capacity was around 276 000 tonnes in 2002, and around 293 000 in the IP. In detail, the production capacity first increased by 9 % in 2003, before declining by 3 percentage points in 2004. It stayed at this level in the IP. Between 2002 and the IP, it rose by 6 %. The increase of 2003 was due essentially to an increase in capacity of one particular producer, intended to serve non-EU markets. This increase was somewhat offset in 2004 by closures implemented by other Community producers.

	2002	2003	2004	IP
Production capacity (tonnes)	276 360	300 869	293 424	293 424
Index (2002 = 100)	*100*	*109*	*106*	*106*
Capacity utilisation	93 %	81 %	85 %	74 %
Index (2002 = 100)	*100*	*87*	*91*	*79*

Source: Investigation.

(54) Capacity utilisation was 93 % in 2002. It declined to 81 % in 2003, increased again to 85 % in 2004, before declining markedly to 74 % in the IP. This reflects the decreasing production and sales volume as described in recitals 52, 56 and 57.

(c) *Stocks*

(55) The level of closing stocks of the Community industry increased by 2 % in 2003, by a further 10 percentage points in 2004, before declining by 14 percentage points the IP. During the IP, the Community industry's stocks stood at around 170 000 tonnes. All in all, the inventory level in the IP was very close to that of 2002. It should be noted however, that the level of inventories is not a meaningful indicator of injury for this particular industry, as it produces to order. The high level of inventories at the end of each year (around 75 % of the annual production volume) is linked to the fact that the harvest and the canning typically end in October each year. Stocks are therefore goods awaiting dispatching during the period November to July.

	2002	2003	2004	IP
Closing stock (tonnes)	173 653	177 124	194 576	169 693
Index (2002 = 100)	*100*	*102*	*112*	*98*

Source: Investigation.

(d) *Sales volume*

(56) The sales volume by the Community industry of its own production intended for the retailer's brand on the Community market to unrelated customers first increased by 4 % in 2003, declined by 11 percentage points in 2004, and stayed at this level in the IP. Between 2002 and the IP, these sales declined by around 7 %, starting from a level of around 125 000 tonnes in 2002.

	2002	2003	2004	IP
EC Sales volume (retailer's brand) to unrelated customers (tonnes)	124 878	130 145	116 703	116 452
Index (2002 = 100)	*100*	*104*	*93*	*93*
EC Sales volume (own and retailer's brand) to unrelated customers (tonnes)	193 657	198 147	189 090	184 645
Index (2002 = 100)	*100*	*102*	*98*	*95*

Source: Investigation.

(57) Total (both own and retailer's brand) Community industry's sales volumes of its own production on the Community market to unrelated customers followed more or less a similar pattern, although slightly less pronounced. From a starting level of around 194 000 tonnes in 2002, they first increased by 2 % in 2003, declined by 4 percentage points in 2004, and declined further by 3 percentage points in the IP. Between 2002 and the IP, these sales declined by around 5 %.

(e) *Market share*

(58) The market share held by the Community industry rose from 58,5 % in 2002 to 59,7 % in 2003, before declining suddenly to 54,4 % in 2004. During the IP, it somewhat recovered to 55,9 %. Over the period considered, the Community industry lost 2,6 percentage points of market share.

	2002	2003	2004	IP
Market share of the Community industry (own and retailer's brand)	58,5 %	59,7 %	54,4 %	55,9 %
Index (2002 = 100)	*100*	*102*	*93*	*95*

Source: Investigation.

(f) *Growth*

(59) Between 2002 and the IP, when the Community consumption remained flat, the volume of sales intended for the retailer's brand of the Community industry on the Community market decreased by around 7 %, whilst the volume of Community industry's sales intended for both own and retailer's brand on the Community market decreased by around 5 %. Between 2002 and the IP, the Community industry lost around 2,6 percentage points of market share, whereas dumped imports gained around 6 percentage points of market share, corresponding to an increase of approximately 20 000 tonnes sold on the Community market. It is thus concluded that the Community industry could not benefit from any growth.

(g) *Employment*

(60) The employment level of the Community industry first increased by 9 % between 2002 and 2003, declined by 11 percentage points in 2004, and declined further by 4 percentage points in the IP. Overall, employment of the Community industry declined by 6 % between 2002 and the IP, i.e. from around 1 520 persons to 1 420 persons. Confronted to the drop of the sales volume as seen under recitals 56 and 57 above, the Community industry had no option but to lay off part of its workforce to remain competitive.

	2002	2003	2004	IP
Employment (persons)	1 518	1 649	1 482	1 420
Index (2002 = 100)	*100*	*109*	*98*	*94*

Source: Investigation.

(h) *Productivity*

(61) Productivity of the Community industry's workforce, measured as output (tonnes) per person employed per year, starting from a level of 169 tonnes per employee, first decreased by 13 % in 2003, subsequently increased by 12 percentage points in 2004, and then finally declined by 9 percentage points in the IP. This development reflects the fact that the drop in production was sharper than that of the workforce.

	2002	2003	2004	IP
Productivity (tonnes per employee)	169	147	168	152
Index (2002 = 100)	*100*	*87*	*99*	*90*

Source: Investigation.

(i) *Wages*

(62) Between 2002 and the IP, the average wage per employee increased by 19 %. Specifically, it increased by 4 % in 2003, by a further 9 percentage points in 2004 and finally by 6 percentage points in the IP. The increase of 2004 and the IP appears more rapid than average. This is due to the following. The data of two of the largest cooperating producers have been affected by the phasing out of a national scheme aimed at subsidising social security contributions. As a consequence, social security costs were artificially understated in 2002 and 2003.

	2002	2003	2004	IP
Annual labour cost per employee (EUR)	22 283	23 141	25 152	26 585
Index (2002 = 100)	*100*	*104*	*113*	*119*

Source: Investigation.

(j) *Factors affecting sales prices*

(63) Unit prices for Community industry's sales of retailer's brand products to unrelated customers declined almost steadily throughout the period considered. From a level of around 1 050 EUR/tonne in 2002, they declined by 4 % in 2003, by a further 9 percentage points in 2004, before increasing marginally by 2 percentage points in the IP, when they reached a level of 928 EUR/tonne. Overall, the decline was of 11 % between 2002 and the IP.

	2002	2003	2004	IP
Unit price EC market (retailer's brand) (EUR/tonnes)	1 047	1 010	914	928
Index (2002 = 100)	*100*	*96*	*87*	*89*
Unit price EC market (own and retailer's brand) (EUR/tonnes)	1 151	1 126	1 060	1 064
Index (2002 = 100)	*100*	*98*	*92*	*92*

Source: Investigation.

(64) Total (both own and retailer's brand) Community industry's sales prices on the Community market to unrelated customers followed more or less a similar pattern. From a level of around 1 150 EUR/tonne in 2002, they first decreased by 2 % in 2003, declined by a further 6 percentage points in 2004, and stayed approximately at this level in the IP. At a level of around 1 060 EUR/tonne, these sales prices were 8 % lower than the ones observed in 2002.

(65) Given the volume and the level of price undercutting of the imports concerned, these imports were certainly a factor affecting prices.

(k) *Profitability and return on investments*

(66) During the period considered, the profitability of the Community industry's sales of products intended for retailer's brand, expressed as a percentage of net sales, declined from 17 % in 2002 to around 11 % in 2003, to around 5 % in 2004 and to around 3 % in the IP.

	2002	2003	2004	IP
Profitability of EC sales to unrelated (retailer's brand) (% of net sales)	17,0 %	11,1 %	4,6 %	2,9 %
Index (2002 = 100)	*100*	*66*	*27*	*17*
Profitability of EC sales to unrelated (own and retailer's brand) (% of net sales)	21,4 %	17,3 %	13,6 %	10,7 %
Index (2002 = 100)	*100*	*81*	*64*	*50*
ROI (own and retailer's brand) (profit in % of net book value of investments)	59,8 %	43,2 %	32,3 %	25,1 %
Index (2002 = 100)	*100*	*72*	*54*	*42*

Source: Investigation.

(67) The profitability of the Community industry's sales of products intended for both own brand and retailer's brand declined as well from around 21 % in 2002 to around 17 % in 2003, to around 14 % in 2004 and to around 11 % in the IP. The decline is thus less steep than for sales under retailer's brand alone.

(68) The return on investments (ROI), expressed as the profit (for both own and retailer's brand) in percent of the net book value of investments, broadly followed the latter profitability trend. It declined from a level of around 60 % in 2002 to around 43 % in 2003, to around 32 % in 2004, before reaching finally a level of around 25 % in the IP, thus decreasing by 58 percentage points over the period considered.

(l) *Cash flow and ability to raise capital*

(69) The net cash flow from operating activities stood at around 46 million EUR in 2002. It declined to around EUR 32 million in 2003, to EUR 17 million, before recovering slightly to around EUR 22 million in the IP. None of the cooperating Community producers indicated that they experienced difficulties to raise capital.

	2002	2003	2004	IP
Cash flow (own and retailer's brand) (000 EUR)	46 113	31 750	17 057	22 051
Index (2002 = 100)	*100*	*69*	*37*	*48*

Source: Investigation.

(m) *Investments*

(70) The Community industry's annual investments in the production of the like product declined by 55 % from 2002 to 2003, before increasing by 18 % in 2004 and by a further 13 % in the IP. All in all, over the period considered, investment declined by 24 %. With the exception of one cooperating Community producer, as indicated under recital 53 above, Community industry's investments were intended for the maintenance and renewal of existing equipment, and not for capacity increase purposes.

	2002	2003	2004	IP
Net investments (000 EUR)	12 956	5 864	8 101	9 858
Index (2002 = 100)	*100*	*45*	*63*	*76*

Source: Investigation.

(n) *Magnitude of dumping margin*

(71) Given the volume, the market share and the prices of the imports from the country concerned, the impact on the Community industry of the magnitude of the actual margins of dumping cannot be considered to be negligible.

(o) *Recovery from past dumping*

(72) In the absence of any information on the existence of dumping prior to the situation assessed in the present proceeding, this factor is considered irrelevant.

5. **Conclusion on injury**

(73) Between 2002 and the IP, the volume of the dumped imports of the product concerned originating in the country concerned almost doubled and their share of the Community market increased by around 6 percentage points. The average prices of dumped imports were consistently lower than those of the Community industry during the period considered. Moreover, during the IP, the prices of the imports from the country concerned significantly undercut those of the Community industry. Indeed, with the exception of two cooperating exporting producers, model-to-model price comparisons have evidenced undercutting margins of 2 to 10 % in the IP.

(74) Very few indicators experienced a positive development between 2002 and the IP. Production capacity increased by 6 percentage points and annual labour costs increased by around 19 %. However, it has been seen under recitals 53 and 62 above that particular reasons explain these atypical developments.

(75) Conversely, a clear deterioration in the situation of the Community industry has been evidenced over the period considered. Most of the injury indicators developed negatively between 2002 and the IP: production volume declined by 16 %, capacity utilisation lost 19 percentage points, Community industry's sales volume of retailer's brand products declined by 7 %, Community industry's sales volume of both own and retailer's brand products declined by 5 %, the Community industry lost 2,6 percentage points of market share, employment declined by 6 %, Community industry's sales price (whether considering retailer's brand or all brands) declined by around 10 %, investment declined by 24 %, profitability on sales of retailer's brand products declined from 17 % to around 3 % whilst profitability on sales of both own and retailer's brand products declined from 21 % to around 11 % and return on investment and cash flow declined as well.

(76) In the light of the foregoing, it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. **CAUSATION**

1. **Introduction**

(77) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether dumped imports have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. **Effect of the dumped imports**

(78) The significant increase in the volume of the dumped imports by 87 % between 2002 and the IP, and of its corresponding share of the Community market, i.e. by around 6 percentage points, as well as the undercutting found (between 2 % and 10 % depending on the exporter, with the exception of two sampled exporting producers for which no undercutting was found) coincided with the deterioration of the economic situation of the Community industry. Between 2002 and the IP, production declined by 16 %, capacity utilisation lost around 20 percentage points, the sales volume of retailer's brand products which in the first place competed with dumped imports, declined by 7 %, the Community lost 2,6 percentage points of market share, employment declined by 6 %, the unit sales price for retailer's brand products declined by 11 %, investments declined by 24 %, profitability of sales declined considerably and the cash flow was halved. It is therefore provisionally concluded that the dumped imports had a significant negative impact on the situation of the Community industry.

3. **Effect of other factors**

(a) *Export performance of the Community industry*

(79) Several interested parties claimed that any injury suffered by the Community industry was due to its poor export performance.

(80) As can be seen from the table below, the volume of export sales (both own and retailer's brand) increased by 17 % during the period considered. The unit price of these sales increased by 7 % during the period considered, to reach a level above 1 000 EUR in the IP. Both developments in terms of quantities and prices contrast markedly with the negative developments described under recitals 63, 64, 66 and 67 above concerning the Community's industry's sales on the Community market.

	2002	2003	2004	IP
Export sales volume (own and retailer's brand) (tonnes)	48 478	48 170	51 062	56 821
Index (2002 = 100)	*100*	*99*	*105*	*117*

Source: Investigation.

(81) In addition, it should be noted that the profitability trend described under recitals 66 and 67 above refers exclusively to Community industry's sales in the Community. This profitability thus does not concern export sales. It is therefore considered that the export activity cannot have contributed in any way to the injury suffered by the Community industry.

(b) *Decline of consumption on the Community market*

(82) Several interested parties claimed that any injury suffered by the Community industry was due to the decline of consumption on the Community market.

(83) As seen under recital 44 above, consumption has remained stable during the period considered. The argument is therefore dismissed.

(c) *Increase in the production costs of the Community industry*

(84) Several interested parties claimed that any injury suffered by the Community industry was linked to the increase of its production costs, and notably to the rise of fixed capital costs and labour costs.

(85) As seen under recital 62 above, unit labour costs indeed rose by 19 % during the period considered. The explanation for this development has been given under recital 62 above.

(86) As can be seen from the table below, the annual amount of depreciation of the fixed assets of the Community industry directly involved in the production of the like product decreased by around 10 % during the period considered. Total unit production costs increased by only 5 % during the period considered. This increase appears moderate in the light of the following. An important cost element is the can, which accounts for around 40 % of the manufacturing costs of Community producers. The price of the can has increased by around 15 % over the period considered. However, steel is an internationally quoted commodity and both the Community industry and its Thai competitors procure their empty cans at similar prices. It is therefore very likely that Thai producers have been similarly affected by this development, which should have been passed on in the selling prices of both Thai and Community producers, in the absence of dumping and price suppression. However, as shown in recital 47 above, the Thai exporting producers did not increase their export sales prices accordingly, but even decreased them by 13 % over the period considered. It should be further noted that the investigation showed that the total cost of exports plus transport was very close to the total production cost of the Community industry. Dumped imports are therefore not more cost-efficient than the Community industry.

	2002	2003	2004	IP
Depreciation of fixed assets (000 EUR)	10 356	11 501	10 953	9 286
Index (2002 = 100)	*100*	*111*	*106*	*90*
Unit cost of production (EUR/tonne)	904	930	916	950
Index (2002 = 100)	*100*	*103*	*101*	*105*

Source: Investigation.

(87) The sharp deterioration of profitability observed between 2002 and the IP is therefore not attributable to any slippage of the costs of production, but rather to the decline in sales prices. Indeed, the Community industry's sales prices dropped by 11 % between 2002 and the IP, as a consequence of price depression and price suppression caused by dumped imports. The rise in production costs therefore only played a limited role in the injury suffered by the Community industry, if any, and to an extent that is not such as to break the causal link between the dumped imports and the material injury suffered by the Community industry.

(d) *Currency fluctuations*

(88) One interested party claimed that any injury suffered by the Community industry was due to unfavourable exchange rate variations.

(89) It is recalled that the investigation has to establish whether the dumped imports (in terms of prices and volumes) have caused material injury to the Community industry or whether such material injury was due to other factors. In this respect, Article 3(6) of the basic Regulation refers to a demonstration that the price level of the dumped imports causes injury. It therefore merely refers to a difference between price levels, and there is thus no requirement to analyse the factors affecting the level of those prices.

(90) In practical terms, the effect of the dumped imports on the Community industry's prices is essentially examined by establishing price undercutting, price depression and price suppression. For this purpose, the dumped export prices and the Community industry's sales prices are compared, and export prices used for the injury calculations may sometimes require to be converted into another currency in order to have a comparable basis. Consequently, the use of exchange rates in this context only ensures that the price difference is established on a comparable basis. From this, it becomes obvious that the exchange rate can in principle not be another factor of the injury.

(91) The above is in accordance with the wording of Article 3(7) of the basic Regulation, which refers to known factors other than dumped imports. Indeed, the list of the other known factors in this Article does not make reference to any factor affecting the price level of the dumped imports. In sum, if the exports are dumped, and even if they benefited from a favourable development of exchange rates, it is difficult to see how the development of such exchange rate could be another factor causing injury.

(92) Thus, the analysis of the factors affecting the level of the prices of the dumped imports, be it exchange rate fluctuations or something else, cannot be conclusive and such analysis would go beyond the requirements of the basic Regulation. The argument is therefore rejected.

(e) *Imports from other third countries*

(93) Imports from third countries other than Thailand decreased over the period considered by around 44 %, i.e. from around 23 000 tonnes in 2002 to around 13 000 tonnes in the IP. The corresponding market share also declined from around 7 % to around 3,8 %. Based on Eurostat data, average prices for imports from other third countries were substantially higher than either prices from the country concerned and the Community industry's prices. Prices were around 1 100 EUR/tonne in 2002 and increased by 2 % between 2002 and the IP. None of the third countries, taken individually, had a market share above 2 % during the IP, and none of them had an import price during the IP lower than the prices of the country concerned and the prices of the Community industry. Finally, no evidence was provided that any of the third countries had practised dumping of the like product on the Community market.

(94) Given the decline in volumes and market shares of the above third countries, and the fact that their average price was significantly higher than the ones of both the countries concerned and the Community industry, it is concluded that the imports from the other third countries did not contribute to the material injury suffered by the Community industry. Conversely, these imports have probably been negatively affected by the dumped imports.

	2002	2003	2004	IP
Volume of imports from the rest of the world (tonnes)	22 698	15 764	19 683	12 643
Index (2002 = 100)	*100*	*69*	*87*	*56*
Market share of imports from the rest of the world	6,9 %	4,7 %	5,7 %	3,8 %
Price of imports from the rest of the world (EUR/tonne)	1 098	1 084	1 020	1 125
Index (2002 = 100)	*100*	*99*	*93*	*102*

Source: Eurostat.

(f) *Competition from the other Community producers*

(95) As indicated under recital 42 above, the other Community producers did not cooperate with the investigation. Based on information obtained in the course of the investigation, it is estimated that their sales volume in the Community was around 92 000 tonnes in 2002, that it declined by around 10 % in 2003, increased by 13 percentage points in 2004 and finally declined by 4 percentage points in the IP, to reach a level very close to that of 2002. Similarly, the corresponding market share was in the IP very close to its level of 2002, i.e. just below 28 %. The other producers therefore did not gain any sales volume and market share at the expense of the Community industry. No information was available concerning the prices of these other Community producers.

(96) Given the above, and given the absence of information to the contrary, it is provisionally concluded that the other Community producers have not contributed to the injury suffered by the Community industry.

	2002	2003	2004	IP
EC Sales volume of the other Community producers (tonnes)	92 022	82 552	94 544	91 070
Index (2002 = 100)	*100*	*90*	*103*	*99*
Market share of the other Community producers	27,8 %	24,9 %	27,2 %	27,6 %
Index (2002 = 100)	*100*	*89*	*98*	*99*

Source: Investigation, complaint.

4. **Conclusion on causation**

(97) In conclusion, the above analysis has demonstrated that there was a substantial increase in volume and market share of the imports originating in Thailand between 2002 and the IP, together with a considerable decrease in their sales prices and a high level of price undercutting during the IP. This increase in market share of the low-priced Thai imports coincided with a decline in the Community industry's market share and in unit sales price, and with a drop in profitability, in return on investments and cash flow from operating activities.

(98) On the other hand, the examination of the other factors which could have injured the Community industry revealed that none of these could have had a significant negative impact.

(99) Based on the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is therefore provisionally concluded that the dumped imports originating in the country concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. **COMMUNITY INTEREST**

(100) The Commission examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of measures on all parties involved as well as the likely consequences of not taking measures.

1. **Interest of the Community industry**

(101) As indicated under recital 42 above, the Community industry is composed of six companies. It employs around 1 400 persons directly involved in the production, sales and administration of the like product. If measures are imposed, it is expected that the sales volumes and the corresponding market share of the Community industry on the Community market would rise and that the Community industry could thereby also benefit from economies of scale. It is considered that the Community industry will utilise the relief in price suppression imposed by dumped imports to raise moderately its own selling prices, given particularly that the measures proposed will eliminate the undercutting found in the IP. Altogether, these expected positive developments will allow the Community industry to improve its financial situation.

(102) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry will likely continue to lose market share and to experience a deterioration of its profitability. This will in all likelihood lead to cuts in production and investments, the further closure of certain production facilities and further job reduction in the Community.

(103) In conclusion, the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping found.

2. **Interest of the other Community producers**

(104) In the absence of cooperation from these producers, and thus of precise data concerning their activity, the Commission can only estimate from the complaint and from the returned mini-questionnaires intended for sampling that for an estimated production volume of around 100 000 tonnes in the IP, the other producers employed a workforce of approximately 640 persons. Should anti-dumping measures be imposed, the same type of positive developments in terms of sales volumes, prices, and profitability expected as under recital 101 above for the Community industry can be expected for the other Community producers as well.

(105) In conclusion, the other Community producers would certainly benefit from the imposition of anti-dumping measures.

3. **Interest of unrelated importers in the Community**

(106) It is firstly noted that one association representing the interests of German importers expressed its opposition to any possible anti-dumping measures without further substantiating its point.

(107) As indicated under recital 9 above, only one importing company properly cooperated with the investigation. During the IP, this company imported around 4 % of the Community's total import volume of the product concerned originating in Thailand. This cooperating party did not clearly express its stance vis-à-vis the complaint lodged by the complainant. The activity of resale of the product concerned originating in Thailand accounts for a negligible amount (less than 1 %) of its total company turnover. In terms of workforce, less than one person can be allocated to the trading and resale activity of the product concerned.

(108) Given (i) the low cooperation, (ii) the undetermined position of this unrelated importer in the present proceeding and (iii) the negligible share of its turnover and of its workforce concerned by the activity of resale of the product concerned in the Community, it is provisionally concluded that the imposition of anti-dumping measures is unlikely to have a substantial effect, in general, on the situation of unrelated importers in the Community.

4. **Interest of the retailers and of consumers**

(109) Given the specificity of the market at stake in this proceeding, cooperation was sought from retailers and from consumer associations. However, very little cooperation was obtained. Only one retailer offered cooperation. It did not express its stance vis-à-vis the complaint lodged by the complainant. During the IP, its volume of resale of the product concerned originating in Thailand amounted to less than 2 % of the Community's total import volume of the product concerned originating in the country concerned. The turnover generated by the resale of the product concerned was negligible, namely less than 0,01 % of the total turnover of this retailer. The same remains true if one considers not only resales of the product concerned but also resales of the like product, as a percentage of the company turnover. Based on relative turnovers, the number of jobs of the cooperating retailer that can be allocated to the product concerned was estimated to around five during the IP.

(110) At a consumer level, the price effect would likely be as follows: Thai cif export prices at Community frontier would be liable to a weighted average anti-dumping duty of around 10 %, in addition to a conventional customs duty (including a special agricultural element) of around 16 %. Between the cif level of delivery and the final consumer price, various costs including, inter alia, the delivery costs to and the mark up of the importers and the delivery costs to and the markup of the retailers, will also have to be added, which will dilute the impact of the proposed measures in the resulting final retail price.

(111) In view of the spare production capacities and the competitive situation, it is expected that the Community industry will primarily benefit from any anti-dumping measures through an increase in sales volume. On this basis, and given the low weight of sweetcorn consumption in the average consumer basket, any impact from the imposition of an anti-dumping duty on the financial situation of an average consumer is likely to be negligible.

(112) In light of the above and given the overall low degree of cooperation, it is therefore considered that the situation of retailers and of consumers in the Community is unlikely to be substantially affected by the proposed measures.

5. **Reduction of competition on the Community market and risk of supply shortages**

(113) Several interested parties claimed that any anti-dumping measures would reduce competition on the Community market that is, allegedly, already characterised by an oligopolistic supply situation due to the market dominance of two French producers. It was further claimed that excluding Thai producers from the Community would be conducive to supply shortages for retailers and consumers.

(114) It should first be recalled that the aim of anti-dumping measures is not to stop access into the Community for imports on which the measures are imposed, but to eliminate the impact of distorted market conditions arising from the presence of dumped imports.

(115) Although it is possible that, following the imposition of measures, the sales volume and the market share of the imports concerned might decrease, imports from other third countries would still represent an important alternative source of supply. In addition, the return to normal market conditions should make the Community market more attractive to these other sources of supply.

(116) During the IP, the Community industry held a market share of around 60 %, other Community producers held a market share of around 28 %, dumped imports from Thailand around 13 %, and imports from the rest of the world held a market share of around 4 %. As indicated under recital 41 above, there are in total 18 known producers of the like product operating in the Community. In addition, as shown under recital 54 above, the Community industry operated during the IP well below full capacity. Other Community producers also probably have spare capacities. There is thus ample room to increase substantially production volumes in the Community before reaching any capacity constraint.

(117) Given the above considerations, the above market shares, and the above number of independent suppliers of the product concerned and like product, the above claims concerning the issues of competition and supply shortages are rejected.

6. **Conclusion on Community interest**

(118) To conclude, it is expected that the Community industry as well as other Community producers will benefit from the imposition of measures by regaining lost sales and market shares and improving their profitability. Whilst some negative effects may occur in the form of a limited price increase for final consumers, the extent of these is outweighed by the expected beneficial outcome for the Community industry. In light of the above, it is provisionally concluded that no compelling reasons exist for not imposing provisional measures in the present case and that the application of such measures would be in the interest of the Community.

G. **PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES**

(119) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury to the Community industry by the dumped imports.

1. **Injury elimination level**

(120) The level of the provisional anti-dumping measures should be sufficient to eliminate the injury to the Community industry caused by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

(121) On the basis of the information available, it was preliminarily found that a profit margin of 14 % of turnover could be regarded as an appropriate level that the Community industry could be expected to obtain in the absence of injurious dumping. As seen under recital 67 above, in 2002, when the volume of dumped imports from Thailand was the lowest, the Community industry achieved a profit of 21,4 % for its sales of both own and retailer's brand products. However, as indicated under recital 51 above, dumped imports from Thailand are made exclusively under the retailer's brand channel. It was therefore deemed appropriate to adjust the above profitability of 21,4 % in order to reflect this difference in the labelling mix of the Community industry vis-à-vis imports from Thailand. This resulted in a profit in the absence of dumped imports of 14 %.

(122) The necessary price increase was then determined on the basis of a comparison, per product type, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of the like product sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry in order to reflect the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.

(123) The above mentioned price comparison showed the following injury margins:

Karn Corn	31,3 %
Malee Sampran	12,8 %
River Kwai	12,8 %
Sun Sweet	18,6 %
Cooperating exporters not sampled	17,7 %
All other companies	31,3 %

(124) For two companies (Malee Sampran and River Kwai) the injury elimination level was lower than the dumping margin established and the provisional measures should therefore be based on the first mentioned. As the injury elimination level was higher than the dumping margin established for the two other companies, the provisional measures should be based on the latter.

2. **Provisional measures**

(125) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed at the level of the lowest of the dumping and injury margins found, in accordance with the lesser duty rule.

(126) The level of cooperation was very high, it was therefore considered appropriate to set the duty for the remaining companies, which had not cooperated in the investigation, at the level of the highest duty to be imposed on the companies cooperating in the investigation. Therefore, the residual duty set at the rate of 13,2 %.

(127) Consequently, the provisional anti-dumping duties should be as follows:

Sampled exporters	Proposed anti-dumping duty
Karn Corn	4,3 %
Malee Sampran	12,8 %
River Kwai	12,8 %
Sun Sweet	11,2 %
Cooperating exporters not sampled	13,2 %
All other companies	13,2 %

(128) The individual anti-dumping duty rates for the companies specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in Thailand and produced by these companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the countrywide duty rate.

(129) In this respect it should be noted that one of the sampled companies purchase substantial quantities of the finished products from other producers in Thailand for further resale to the Community (as indicated at recital 34 above). For this company an individual duty is only granted for the goods of its own production and under the conditions that the company undertakes to submit production certificates when exporting to the Community in order to establish the manufacturing of the product at customs level.

(130) Any claim requesting the application of an individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, the name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

(131) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Community during the IP.

3. **Final Provision**

(132) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of sweetcorn (*Zea mays* var. *saccharata*) in kernels, prepared or preserved by vinegar or acetic acid, not frozen, falling within CN code ex 2001 90 30 (TARIC code 2001 90 30 10) and sweetcorn (*Zea mays* var. *saccharata*) in kernels prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006, falling within CN code ex 2005 80 00 (TARIC code 2005 80 00 10), originating in Thailand.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1 and produced by the companies below shall be as follows:

Company	Anti-Dumping duty (%)	TARIC Additional Code
Karn Corn Co., Ltd, 278 Krungthonmuangkeaw, Sirinthon Rd., Bangplad, Bangkok, Thailand	4,3	A789
Malee Sampran Public Co., Ltd, Abico Bldg. 401/1 Phaholyothin Rd., Lumlookka, Pathumthani 12130, Thailand	12,8	A790
River Kwai International Food Industry Co., Ltd, 52 Thaniya Plaza, 21st. Floor, Silom Rd., Bangrak, Bangkok 10500, Thailand	12,8	A791
Sun Sweet Co., Ltd, 9 M 1, Sanpatong-Bankad Rd., T. Toongsatok, Sanpatong, Chiangmai, Thailand	11,2	A792
Manufacturers listed in the Annex I	13,2	A793
All other companies	13,2	A999

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The application of the individual duty rates specified for the company River Kwai mentioned in Article 1(2) shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex II. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

Article 3

Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 4

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 19 December 2006.

For the Commission
Peter MANDELSON
Member of the Commission

ANNEX I

List of the cooperating manufacturers referred to in Article 1(2) under TARIC additional code A793:

Name	Address
Agro-On (Thailand) Co., Ltd	50/499-500 Moo 6, Baan Mai, Pakkret, Monthaburi 11120, Thailand
B.N.H. Canning Co., Ltd	425/6-7 Sathorn Place Bldg., Klongtonsai, Klongsan, Bangkok 10600, Thailand
Boonsith Enterprise Co., Ltd	7/4 M.2, Soi Chomthong 13, Chomthong Rd., Chomthong, Bangkok 10150, Thailand
Erawan Food Public Company Limited	Panjathani Tower 16th floor, 127/21 Nonsee Rd., Chongnonsee, Yannawa, Bangkok 10120, Thailand
Great Oriental Food Products Co., Ltd	888/127 Panuch Village, Soi Thanaphol 2, Samsen-Nok, Huaykwang, Bangkok 10310, Thailand
Kuiburi Fruit Canning Co., Ltd	236 Krung Thon Muang Kaew Bldg., Sirindhorn Rd., Bangplad, Bangkok 10700, Thailand
Lampang Food Products Co., Ltd	22K Building, Soi Sukhumvit 35, Klongton Nua, Wattana, Bangkok 10110, Thailand
O.V. International Import-Export Co., Ltd	121/320 Soi Ekachai 66/6, Bangborn, Bangkok 10500, Thailand
Pan Inter Foods Co., Ltd	400 Sunphavuth Rd., Bangna, Bangkok 10260, Thailand
Siam Food Products Public Co., Ltd	3195/14 Rama IV Rd., Vibulthani Tower 1, 9th Fl., Klong Toey, Bangkok 10110, Thailand
Viriyah Food Processing Co., Ltd	100/48 Vongvanij B Bldg, 18th Fl, Praram 9 Rd., Huay Kwang, Bangkok 10310, Thailand
Vita Food Factory (1989) Ltd	89 Arunammarin Rd., Banyikhan, Bangplad, Bangkok 10700, Thailand

ANNEX II

The valid commercial invoice referred to in Article 3 of this Regulation must include a declaration signed by an official of the company, in the following format:

The name and function of the official of the company which has issued the commercial invoice.

The following declaration: 'I, the undersigned, certify that the "volume" of [product concerned] sold for export to the European Community covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.'

Date and signature

NOTICE TO READERS

From 1 January 2007, the structure of the Official Journal will be modified in the direction of a clearer classification of the acts published which preserves, nevertheless, essential continuity.

The new structure, with examples illustrating its use in the classification of acts, can be consulted on the EUR-Lex site on the following address:

http://eur-lex.europa.eu/en/index.htm