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Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/428

of 10 March 2017

approving the basic substance clayed charcoal in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]), and in particular Article 23(5) in conjunction with Article 13(2) thereof,

Whereas:

(1) In accordance with Article 23(3) of Regulation (EC) No 1107/2009, the Commission received on 18 May 2015 an application from Ets Christian Callegari for the approval of clayed charcoal as a basic substance. That application was accompanied by the information required by the second subparagraph of Article 23(3).

(2) The Commission asked the European Food Safety Authority (hereinafter 'the Authority') for scientific assistance. The Authority presented to the Commission a Technical Report on 6 July 2016 ([2]). The Commission presented the review report ([3]) and a draft of this Regulation to the Standing Committee on Plants, Animals, Food and Feed on 7 October 2016 and finalised them for the meeting of that Committee on 24 January 2017.

(3) The documentation provided by the applicant shows that clayed charcoal does not have an inherent capacity to cause endocrine disrupting, neurotoxic or immunotoxic effects, nor is it a substance of concern. Moreover, it is not placed on the market as a plant protection product, nor is it predominantly used for plant protection purposes but nevertheless is useful in plant protection in a product consisting of the substance and water. Consequently, it is to be considered as a basic substance. Clayed charcoal is a mixture of charcoal, as defined in Commission Regulation (EU) No 231/2012 ([4]), and bentonite, as specified in Commission Implementing Regulation (EU) No 1060/2013 ([5]), in the form of granules.

([1]) OJ L 309, 24.11.2009, p. 1.
([2]) EFSA (European Food Safety Authority), 2016. Technical report on the outcome of the consultation with Member States and EFSA on the basic substance application for clayed charcoal for use in plant protection as a protectant in grapevines. EFSA supporting publication 2016:13(7):EN-1061. 28 pp.
([3]) http://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/public/?event=activesubstance.selection&language=EN
([4]) Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).
([5]) Commission Implementing Regulation (EU) No 1060/2013 of 29 October 2013 concerning the authorisation of bentonite as a feed additive for all animal species (OJ L 289, 31.10.2013, p. 33).

(4) It has appeared from the examinations made that clayed charcoal may be expected to satisfy, in general, the requirements laid down in Article 23 of Regulation (EC) No 1107/2009, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve clayed charcoal as a basic substance.

(5) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions for the approval which are detailed in Annex I to this Regulation.

(6) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 [1] should be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Approval of a basic substance

The substance clayed charcoal as specified in Annex I is approved as a basic substance subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth 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, 10 March 2017.

For the Commission
The President
Jean-Claude JUNCKER

[1] Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity [1]	Date of approval	Specific provisions
Clayed charcoal CAS No 7440-44-0 231-153-3 (Einecs) (activated charcoal) CAS No 1333-86-4 215-609-9 (Einecs) (carbon black) CAS No 1302-78-9 215-108-5 (Einecs) (bentonite)	Not available.	Charcoal: Purity required by Regulation (EU) No 231/2012 Bentonite: Purity required by Implementing Regulation (EU) No 1060/2013	31 March 2017	Clayed charcoal shall be used in accordance with the specific conditions included in the conclusions of the review report on clayed charcoal (SANTE/11267/2016) and in particular Appendices I and II thereof.

[1] Further details on identity, specification and manner of use of basic substance are provided in the review report.

ANNEX II

In Part C of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

'13	Clayed charcoal CAS No 7440-44-0 231-153-3 (Einecs) (activated charcoal) CAS No 1333-86-4 215-609-9 (Einecs) (carbon black) CAS No 1302-78-9 215-108-5 (Einecs) (bentonite)	Not available.	Charcoal: Purity required by Regulation (EU) No 231/2012 (*) Bentonite: Purity required by Implementing Regulation (EU) No 1060/2013 (**)	31 March 2017	Clayed charcoal shall be used in accordance with the specific conditions included in the conclusions of the review report on clayed charcoal (SANTE/11267/2016) and in particular Appendices I and II thereof.

(*) Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

(**) Commission Implementing Regulation (EU) No 1060/2013 of 29 October 2013 concerning the authorisation of bentonite as a feed additive for all animal species (OJ L 289, 31.10.2013, p. 33).'

COMMISSION IMPLEMENTING REGULATION (EU) 2017/429

of 10 March 2017

concerning the authorisation of a preparation of endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (formerly classified as *Aspergillus aculeatus*) (CBS 589.94), endo-1,4-beta-glucanase produced by *Trichoderma reesei* (formerly classified as *Trichoderma longibrachiatum*) (CBS 592.94), alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553) and endo-1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842) as a feed additive for all avian species and amending Regulations (EC) No 358/2005 and (EC) No 1284/2006 and repealing Regulation (EU) No 516/2010 (holder of the authorisation Kemin Europa NV)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]), and in particular Article 9(2) thereof,

Whereas:

(1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ([2]).

(2) The preparation of endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (formerly classified as *Aspergillus aculeatus*) (CBS 589.94), endo-1,4-beta-glucanase produced by *Trichoderma reesei* (formerly classified as *Trichoderma longibrachiatum*) (CBS 592.94), alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553) and endo-1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842) was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for chickens for fattening by Commission Regulation (EC) No 358/2005 ([3]), for turkeys for fattening by Commission Regulation (EC) No 1284/2006 ([4]) and for laying hens by Commission Regulation (EU) No 516/2010 ([5]). That preparation was subsequently entered in the register of feed additives as an existing product, in accordance with Article 10(1) of Regulation (EC) No 1831/2003.

(3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 of that Regulation, an application was submitted for the re-evaluation of the preparation of endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (formerly classified as *Aspergillus aculeatus*) (CBS 589.94), endo-1,4-beta-glucanase produced by *Trichoderma reesei* (formerly classified as *Trichoderma longibrachiatum*) (CBS 592.94), alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553) and endo-1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842) as a feed additive for chickens for fattening, turkeys for fattening and for laying hens and, in accordance with Article 7 of that Regulation, for a new authorisation as a feed additive for all other avian species. The applicant requested that additive to be classified in the additive category 'zootechnical additives'. The application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

(4) The European Food Safety Authority ('the Authority') concluded in its opinion of 9 September 2015 ([6]) that, under the proposed conditions of use, the additive does not have an adverse effect on animal health, human health or the environment. The Authority also concluded that the use of that preparation has the potential to be efficacious in improving zootechnical parameters in chickens for fattening, turkeys for fattening and in laying

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs (OJ L 270, 14.12.1970, p. 1).
([3]) Commission Regulation (EC) No 358/2005 of 2 March 2005 concerning the authorisations without a time limit of certain additives and the authorisation of new uses of additives already authorised in feedingstuffs (OJ L 57, 3.3.2005, p. 3).
([4]) Commission Regulation (EC) No 1284/2006 of 29 August 2006 concerning the permanent authorisations of certain additives in feedingstuffs (OJ L 235, 30.8.2006, p. 3).
([5]) Commission Regulation (EU) No 516/2010 of 15 June 2010 concerning the permanent authorisation of an additive in feedingstuffs (OJ L 150, 16.6.2010, p. 46).
([6]) *EFSA Journal* 2015; 13(9):4235.

hens. It was considered that these conclusions can be extended to chickens reared for laying and turkeys reared for breeding. The Authority further considered that the mode of action of the enzymes present in the additive can be considered to be similar in all poultry species, therefore the conclusions on the efficacy in major poultry species can be extrapolated to minor poultry species and ornamental birds. It does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

(5) The assessment of the preparation endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (formerly classified as *Aspergillus aculeatus*) (CBS 589.94), endo-1,4-beta-glucanase produced by *Trichoderma reesei* (formerly classified as *Trichoderma longibrachiatum*) (CBS 592.94), alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553) and endo1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.

(6) Regulations (EC) No 358/2005 and (EC) No 1284/2006 should be amended accordingly. Regulation (EU) No 516/2010 should be repealed.

(7) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation, it is appropriate to allow a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the authorisation.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Authorisation

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'digestibility enhancers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

Amendments to Regulation (EC) No 358/2005

In Annex I to Regulation (EC) No 358/2005 entry E1621 on endo-1,3(4)-beta-glucanase EC 3.2.1.6, endo-1,4-beta-glucanase EC 3.2.1.4, alpha-amylase EC 3.2.1.1 and endo-1,4-beta-xylanase EC 3.2.1.8 is deleted.

Article 3

Amendments to Regulation (EC) No 1284/2006

Regulation (EC) No 1284/2006 is amended as follows:

(1) Article 2 is deleted.

(2) Annex II is deleted.

Article 4

Repeal

Regulation (EU) No 516/2010 is repealed.

Article 5

Transitional measures

The preparation specified in the Annex, and feed containing that preparation, which are produced and labelled before 30 September 2017 in accordance with the rules applicable before 31 March 2017 may continue to be placed on the market and used until the existing stocks are exhausted.

Article 6

Entry into force

This Regulation shall enter into force on the twentieth 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, 10 March 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: digestibility enhancers									
4a1621i	Kemin Europa NV	Endo-1,3(4)-beta-glucanase EC 3.2.1.6 Endo-1,4-beta-glucanase EC 3.2.1.4 Alpha-amylase EC 3.2.1.1 Endo-1,4-beta-xylanase EC 3.2.1.8	*Additive composition* Preparation of: — endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (formerly classified as *Aspergillus aculeatus*) (CBS 589.94), — endo-1,4-beta-glucanase produced by *Trichoderma reesei* (formerly classified as *Trichoderma longibrachiatum*) (CBS 592.94), — alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553), — endo-1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842) having a minimum activity of: — endo-1,3(4)-beta-glucanase: 10 000 U ([1])/g, — endo-1,4-beta-glucanase: 310 000 U ([2])/g, — alpha-amylase: 400 U ([3])/g, — endo-1,4-beta-xylanase: 210 000 U ([4])/g. Liquid form	All avian species	—	Endo-1,3(4)-beta-glucanase 500 U Endo-1,4-beta-glucanase 15 500 U Alpha-amylase 20 U Endo-1,4-beta-xylanase 10 500 U	—	1. In the directions for use of the additive and premixture the storage conditions and stability to pelleting shall be indicated. 2. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from its use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.	31 March 2027

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			
			Characterisation of the active substance: — endo-1,3(4)-beta-glucanase produced by *Aspergillus aculeatinus* (CBS 589.94), — endo-1,4-beta-glucanase produced by *Trichoderma reesei* (CBS 592.94), — alpha-amylase produced by *Bacillus amyloliquefaciens* (DSM 9553), — endo-1,4-beta-xylanase produced by *Trichoderma viride* (NIBH FERM BP4842). *Analytical method* (5) For the determination in feed additive of: — endo-1,3(4)-beta-glucanase in the feed additive: colorimetric method based on the enzymatic hydrolysis of glucanase on the barley beta-glucan substrate at pH 7,5 and 30 °C, — endo-1,4-beta-glucanase in the feed additive: colorimetric method based on the enzymatic hydrolysis of cellulase on the carboxylmethylcellulose at pH 4,8 and 50 °C,						

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			
			— alpha-amylase in the feed additive: colorimetric method based on the formation of water soluble dyed fragments produced by the action of amylase on azurine cross-linked starch polymer substrates at pH 7,5 and 37 °C, — endo-1,4-beta-xylanase in the feed additive: colorimetric method based on the enzymatic hydrolysis of xylanase on the birchwood xylane substrate at pH 5,3 and 50 °C. For the determination in premixtures and feedingstuffs of: — endo-1,3(4)-beta-glucanase: plate test method based on the glucanase diffusion and the subsequent decolouring of the red agar medium due to the beta-glucan hydrolysis, — endo-1,4-beta-glucanase: colorimetric method based on the quantification of the water soluble dye fragments produced by the action of cellulase on azurine cross-linked water insoluble HE-cellulose substrate,						

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			
			— alpha-amylase: colorimetric method based on the formation of water soluble blue fragments produced by the action of amylase on azurine cross-linked insoluble blue-coloured starch polymer substrates, — endo-1,4-beta-xylanase: colorimetric method based on the quantification of water soluble dyed fragments produced by the action of xylanase on azurine cross-linked wheat arabinoxylan.						

(1) 1 U is the amount of enzyme which liberates 0,0056 micromoles of reducing sugars (glucose equivalents) from barley beta-glucan per minute at pH 7,5 and 30 °C.
(2) 1 U is the amount of enzyme which liberates 0,0056 micromoles of reducing sugars (glucose equivalents) from carboxymethylcellulose per minute at pH 4,8 and 50 °C.
(3) 1 U is the amount of enzyme which liberates 1 micromole of glucose from a cross-linked starch polymer per minute at pH 7,5 and 37 °C.
(4) 1 U is the amount of enzyme which liberates 0,0067 micromoles of reducing sugars (xylose equivalents) from birchwood xylan per minute at pH 5,3 and 50 °C.
(5) Details of the analytical methods are available at the following address of the Reference Laboratory: https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports

COMMISSION IMPLEMENTING REGULATION (EU) 2017/430

of 10 March 2017

amending Implementing Regulation (EU) 2016/1713 fixing the quantitative limit for the exports of out-of-quota sugar until the end of the 2016/2017 marketing year and amending Implementing Regulation (EU) 2016/1810

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 139(2) and point (g) of the first paragraph of Article 144 thereof,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ([2]), and in particular Article 7e in conjunction with Article 9(1) thereof,

Whereas:

(1) According to point (d) of the first subparagraph of Article 139(1) of Regulation (EU) No 1308/2013, the sugar or isoglucose produced during a marketing year in excess of the quota referred to in Article 136 of that Regulation may be exported only within a quantitative limit to be fixed by the Commission.

(2) Detailed implementing rules for out-of-quota exports, in particular concerning the issue of export licences, are laid down by Regulation (EC) No 951/2006.

(3) For the 2016/2017 marketing year it was initially estimated that fixing the quantitative limit at 650 000 tonnes, in white sugar equivalent, for out-of-quota sugar exports would correspond to the market demand. Such a limit was set by Commission Implementing Regulation (EU) 2016/1713 ([3]). However, according to most recent estimates, the production of out-of-quota sugar is expected to reach 4 100 000 tonnes. Additional market outlets for out-of-quota sugar should therefore be ensured.

(4) Taking into account that the WTO ceiling for exports in the 2016/2017 marketing year has not been fully used, it is appropriate to increase the export quantitative limit of out-of-quota sugar by 700 000 tonnes, so as to provide additional business opportunities for the Union producers of sugar.

(5) Implementing Regulation (EU) 2016/1713 should therefore be amended accordingly.

(6) To allow the lodging of applications for export licences concerning the additional quantity of out-of-quota sugar, the suspension of the lodging of applications provided for in Article 1(3) of Commission Implementing Regulation (EU) 2016/1810 ([4]) should be abolished.

(7) Implementing Regulation (EU) 2016/1810 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

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([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 178, 1.7.2006, p. 24.
([3]) Commission Implementing Regulation (EU) 2016/1713 of 20 September 2016 fixing the quantitative limit for exports of out-of-quota sugar and isoglucose until the end of the 2016/2017 marketing year (OJ L 258, 24.9.2016, p. 8).
([4]) Commission Implementing Regulation (EU) 2016/1810 of 12 October 2016 fixing an acceptance percentage for the issuing of export licences, rejecting export-licence applications and suspending the lodging of export-licence applications for out-of-quota sugar (OJ L 276, 13.10.2016, p. 9).

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Implementing Regulation (EU) 2016/1713, paragraph 1 is replaced by the following:

'1. For the 2016/2017 marketing year, the quantitative limit referred to in point (d) of the first subparagraph of Article 139(1) of Regulation (EU) No 1308/2013 shall be 1 350 000 tonnes for exports without refund of out-of-quota white sugar falling within CN code 1701 99.'

Article 2

In Article 1 of Implementing Regulation (EU) 2016/1810, paragraph 3 is deleted.

Article 3

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, 10 March 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/431

of 10 March 2017

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]),

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ([2]), and in particular Article 136(1) thereof,

Whereas:

(1) Implementing Regulation (EU) No 543/2011 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 Annex XVI, Part A thereto.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 10 March 2017.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General
Directorate-General for Agriculture and Rural Development

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 157, 15.6.2011, p. 1.

ANNEX

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	EG	235,2
	MA	88,9
	SN	205,2
	TN	194,0
	TR	102,0
	ZZ	165,1
0707 00 05	MA	80,2
	TR	183,5
	ZZ	131,9
0709 91 00	EG	97,7
	ZZ	97,7
0709 93 10	MA	52,6
	TR	150,2
	ZZ	101,4
0805 10 22, 0805 10 24, 0805 10 28	EG	47,7
	IL	70,7
	MA	48,1
	TN	55,3
	TR	68,8
	ZZ	58,1
0805 50 10	EG	68,9
	TR	70,0
	ZZ	69,5
0808 10 80	CL	90,0
	CN	154,7
	US	120,0
	ZA	86,6
	ZZ	112,8
0808 30 90	AR	124,1
	CL	152,6
	CN	102,2
	ZA	113,0
	ZZ	123,0

(1) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2017/432

of 7 March 2017

on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

(1) Directive 2008/115/EC of the European Parliament and of the Council ([1]) lays down common standards and procedures to be applied in Member States for returning illegally staying third-country nationals.

(2) The Schengen Evaluation Mechanism ([2]) and the information collected through the European Migration Network ([3]) have allowed for a comprehensive assessment of how Member States implement the Union policy on return.

(3) The evaluations indicate that the margins of discretion left to the Member States by Directive 2008/115/EC led to an inconsistent transposition in national legislations, with a negative impact on the effectiveness of the Union return policy.

(4) Since the entry into force of Directive 2008/115/EC, and in the light of the increasing migratory pressure on the Member States, the challenges that the Union return policy needs to respond to have increased and brought this aspect of the European comprehensive migration policy to the forefront. In its Conclusions of 20-21 October 2016 ([4]), the European Council called for reinforcing national administrative processes for returns.

(5) The Malta Declaration of Heads of State or Government ([5]) of 3 February 2017 highlighted the need for a review of EU return policy based on an objective analysis of the way in which the legal, operational, financial and practical tools available at Union and national level are applied. It welcomed the Commission's intention to rapidly present an updated EU Action Plan on Return and to provide guidance for more operational returns by the EU and Member States and effective readmission based upon the existing *acquis*.

(6) In view of the current increase in the number of third-country nationals illegally entering and staying in the Member States, and in order to ensure appropriate capacity to protect those in need, it is necessary to use to the full extent the flexibility provided for in Directive 2008/115/EC. A more effective implementation of that Directive would reduce possibilities of misuse of procedures and remove inefficiencies, while ensuring the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.

(7) This Recommendation provides guidance on how the provisions of Directive 2008/115/EC should be used for achieving more effective return procedures, and call on the Member States to take the necessary measures to remove legal and practical obstacles to return.

([1]) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).
([2]) Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).
([3]) Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).
([4]) European Council conclusions of 20-21 October 2016, EUCO 31/16.
([5]) European Council press release 43/17 of 3 February 2017.

(8) An effective Union return policy requires efficient and proportionate measures for the apprehension and identification of illegally staying third-country nationals, swift processing of their cases, and adequate capacity to ensure their presence in view of return.

(9) Organising return requires a streamlined and well integrated organisation of multi-disciplinary competences at national level. In addition, it demands procedures and instruments that allow information to be made promptly available to the competent authorities, as well as cooperation between all actors that are involved in the different procedures.

(10) Multi-disciplinary trained and competent staff gathering all relevant competences is needed to ensure that national authorities are able to respond to the needs, particularly in circumstances where Member States are confronted with a significant burden in implementing the obligation to return illegally staying third-country nationals. In organising this integrated and coordinated approach, Member States should make full use of the available Union financial instruments, programmes and projects in the field of return, in particular of the Asylum, Migration and Integration Fund. In this context, the Member States should also take into account the migratory pressure that the competent authorities are dealing with.

(11) In accordance with Article 6(1) of Directive 2008/115/EC, the Member States should systematically issue a return decision to third-country nationals who are staying illegally on their territory. The legislation and the practice in the Member States does not give full effect to this obligation in all circumstances, thereby undermining the effectiveness of the Union return system. For instance, certain Member States do not issue return decisions following a negative decision on an asylum claim or a residence permit, or do not issue such decisions to illegally staying third-country nationals who do not hold a valid identity or travel document.

(12) Depending on the institutional set-up of the Member States, in particular when different authorities deal with the process, a return decision is not necessarily or immediately followed by a request to the authorities of third-countries to verify the identity of the illegally staying third-country national and to deliver a valid travel document.

(13) In accordance with Article 13 of the Schengen Borders Code ([1]), a person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.

(14) Directive 2008/115/EC establishes that the state of health of the third-country nationals concerned shall be taken into account when implementing that Directive, and that emergency health care and essential treatment of illness must be provided pending return. It is however essential to ensure that removals of illegally staying third-country nationals are enforced and measures are taken to prevent behaviour aimed at hampering or preventing return, such as false new medical claims. Moreover, it is also necessary to put in place measures tackling in an efficient manner asylum applications made merely to delay or frustrate the enforcement of return decisions.

(15) Directive 2008/115/EC, while obliging the third-country national illegally staying to leave the Union, requires return decisions to be enforced only by the issuing Member States. A return process can be launched in every Member State that apprehends the same illegally staying third-country national. Mutual recognition of return decision, as provided for by Council Directive 2001/40/EC ([2]) and Council Decision 2004/191/EC ([3]), would accelerate return process and deter unauthorised secondary movements within the Union.

(16) Detention can be an essential element for enhancing the effectiveness of the Union's return system, which should only be used if no other sufficient but less coercive measures can be applied effectively in accordance with Article 15(1) of Directive 2008/115/EC. In particular, where necessary, to ensure that illegally staying third-country nationals do not abscond, detention can allow for a successful preparation and organisation of return operations.

([1]) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

([2]) Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149, 2.6.2001, p. 34).

([3]) Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 60, 27.2.2004, p. 55).

(17) The maximum duration period of detention currently used by several Member States is significantly shorter than the one allowed by Directive 2008/115/EC and which is needed to complete the return procedure successfully. These short periods of detention are precluding effective removals.

(18) Deadlines for lodging appeals against decisions related to return diverge significantly among Member States, ranging from few days to one month or more. In compliance with fundamental rights, the deadline should provide enough time to ensure access to an effective remedy, while taking into account that long deadlines can have a detrimental effect on return procedures.

(19) Irregularly staying third-country nationals should be granted the right to be heard by the competent authorities before any individual measure which would affect him or her is taken.

(20) Under Directive 2008/115/EC, an automatic suspensive effect of appeals against return decisions should be granted when there is a risk that the third-country national concerned would be exposed to a real risk of ill-treatment in case of return, in violation of Articles 19(2) and 47 of the Charter of Fundamental Rights of the European Union, as interpreted by the Court of Justice of the European Union ([1]).

(21) A large number of Member States conduct repetitive assessments of the risk of *refoulement* all along the different phases of the asylum and return procedures, which can cause the unnecessary delays in the return of illegally staying third-country nationals.

(22) Return of an unaccompanied minor to the third country of origin and reunification with the family may be in the best interests of the child. The prohibition to issue return decisions to unaccompanied minors, which exists in the national legislation of several Member States, does not give full effect to the Member States' obligation to take due account of the child's best interests, and to pay attention to the circumstances of each individual case. Such prohibitions can create unintended consequences for illegal immigration, inciting unaccompanied minors to embark on perilous journeys in order to reach the Union.

(23) Decisions on the legal status and on the return of unaccompanied minors should always be based on individual, multi-disciplinary and robust assessments of their best interests, including family tracing and home assessment. Such assessment should be adequately documented.

(24) In line with Article 17 of Directive 2008/115/EC which defines the conditions under which Member States can use detention in relation to unaccompanied minors and of families with minors as a measure of last resort and for the shortest appropriate period of time, Member States should ensure the availability of alternatives to detention for children. Where however, no such alternatives exist, an absolute prohibition of detention in such cases, may not give full effect to the obligation to take all necessary measures to ensure return, leading to annulment of return operations due to absconding.

(25) Pending the adoption of proposal for a Regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals ([2]), Member States should make full use of the possibility to enter an alert on entry ban in accordance with Article 24(3) of Regulation (EC) No 1987/2006 of the European Parliament and of the Council ([3]).

(26) This Recommendation should be addressed to all Member States bound by Directive 2008/115/EC.

(27) Member States should instruct their national authorities competent for carrying out return-related tasks to apply this Recommendation when performing their duties.

(28) This Recommendation complies with the fundamental rights and the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Recommendation ensures the full respect for human dignity and the application of Articles 1, 4, 14, 18, 19, 24 and 47 of the Charter and has to be implemented accordingly,

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([1]) Judgment of the Court of Justice of the European Union, case C-562/13 of 18 December 2014.
([2]) COM(2016) 881 final.
([3]) Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

HAS ADOPTED THIS RECOMMENDATION:

REINFORCED AND BETTER RETURN CAPACITIES

(1) To address the procedural, technical, and operational obstacles to more effective returns, Member States should by 1 June 2017 reinforce their capacity to carry out the return of illegally staying third-country nationals by ensuring an integrated and coordinated approach.

(2) The objectives of such an integrated and coordinated approach in the area of return should be to:

(a) ensure swift return procedures and substantially increase the rate of return;

(b) mobilise, as needed, law enforcement and immigration authorities, and coordinate actions with judicial authorities, detention authorities, guardianship systems, medical and social services, to ensure availability of swift and adequate multi-disciplinary responses from all authorities involved in the return procedures;

(c) ensure that a sufficient number of trained and competent staff, from all authorities with competences in the return procedures, are available to respond swiftly, and if necessary on a 24/7 basis, particularly when facing an increasing burden in implementing the obligation to return illegally staying third-country nationals;

(d) depending on the specific situation of the Member State, deploy additional staff at the external borders of the Union with the mandate and capacity to take immediate measures to determine and verify the identity and the legal status of the third-country nationals and immediately refuse entry or issue return decisions to those who have no right to enter or to stay in the Union.

(3) The integrated and coordinated approach in the area of return should fulfil, in particular, the following tasks:

(a) carry out swift medical examinations to avoid potential abuses in the situations referred to in point 9(b);

(b) liaise and exchange relevant operational information with other Member States and the European Border and Coast Guard Agency for the fulfilment of their objectives and tasks;

(c) make full use of the relevant IT systems, such as Eurodac, the Schengen Information System (SIS) and the Visa Information System (VIS), to obtain timely information on the identity and legal situation of the third-country nationals concerned.

(4) Member States should ensure that units or bodies tasked to ensure the integrated and coordinated approach are allocated all the necessary human, financial and material resources.

SYSTEMATIC ISSUANCE OF RETURN DECISIONS

(5) For the purpose of ensuring that return decisions are systematically issued to third-country nationals who either do not have or no longer have a right to stay in the European Union, Member States should:

(a) put in place measures to effectively locate and apprehend third-country nationals staying illegally;

(b) issue return decisions regardless of whether the illegally staying third-country national holds an identity or travel document;

(c) make the best use of the possibility provided for in Article 6(6) of Directive 2008/115/EC to combine in one act or to adopt simultaneously the decision on the ending of a legal stay and the return decision, provided that the relevant safeguards and provisions for each individual decision are respected.

(6) Member States should ensure that return decisions have unlimited duration, so that they can be enforced at any moment without the need to re-launch return procedures after a certain period of time. This should be without prejudice to the obligation to take into account any change in the individual situation of the third-country nationals concerned, including the risk of *refoulement*.

(7) Member States should systematically introduce in return decisions the information that third-country nationals must leave the territory of the Member State to reach a third country, to deter and prevent unauthorised secondary movements.

(8) Member States should make use of the derogation provided for under Article 2(2)(a) of Directive 2008/115/EC when this can provide for more effective procedures, in particular when facing significant migratory pressure.

EFFECTIVE ENFORCEMENT OF RETURN DECISIONS

(9) For the purpose of ensuring swift returns of illegally staying third-country nationals, Member States should:

(a) in accordance with Directive 2013/32/EU of the European Parliament and of the Council [1], organise proceedings for the swift examination of applications for international protection in an accelerated or, where considered appropriate, border procedure, including where an asylum application is made merely to delay or frustrate the enforcement of a return decision;

(b) take steps to prevent potential abuses related to false new medical claims aimed at preventing removal, for instance by ensuring that medical personnel appointed by the relevant national authority is available to provide an objective and independent opinion;

(c) ensure that return decisions are followed without delay by a request to the third country of readmission to deliver a valid travel documents or to accept the use of the European travel document for return issued in accordance with Regulation (EU) No 2016/1953 of the European Parliament and of the Council [2];

(d) make use of the instrument of mutual recognition of return decisions provided for by Directive 2001/40/EC and Decision 2004/191/EC.

(10) For the purpose of effectively ensuring removals of illegally staying third-country nationals, Member States should:

(a) use detention as needed and appropriate in the cases provided for in Article 15(1) of Directive 2008/115/EC, and in particular where there is a risk of absconding as provided for in points 15 and 16 of this Recommendation;

(b) provide in national legislation for a maximum initial period of detention of six months that can be adapted by the judicial authorities in the light of the circumstances of the case, and for the possibility to further prolong the detention until 18 months in the cases provided for in Article 15(6) of Directive 2008/115/EC;

(c) bring detention capacity in line with actual needs, including by using where necessary the derogation for emergency situations as provided for in Article 18 of Directive 2008/115/EC.

(11) In relation to illegally staying third-country nationals who intentionally obstruct the return processes, Member States should consider using sanctions in accordance with national law. These sanctions should be effective, proportionate and dissuasive and should not impair the achievement of the objective of Directive 2008/115/EC.

PROCEDURAL SAFEGUARDS AND REMEDIES

(12) Member States should:

(a) merge in one procedural step, to the extent possible, administrative hearings conducted by the competent authorities for different purposes, such as for the granting of a residence permit, for return or for detention. New ways of holding such hearings of third-country nationals, such as the use of video-conferencing, should also be developed;

(b) provide for the shortest possible deadline for lodging appeals against return decisions established by national law in comparable situations, to avoid misuse of rights and procedures, in particular appeals lodged shortly before the scheduled date of removal;

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[1] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

[2] Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994 (OJ L 311, 17.11.2016, p. 13).

(c) ensure that the automatic suspensive effect of appeals against return decisions is granted only when this is necessary to comply with Articles 19(2) and 47 of the Charter;

(d) avoid repetitive assessments of the risk of breach of the principle of *non-refoulement*, if the respect of that principle has already been assessed in other procedures, the assessment is final and there is no change in the individual situation of the third-country nationals concerned.

FAMILY AND CHILDREN

(13) To ensure respect of the rights of the child, and taking fully into account the best interests of the child and family life under Article 5 of Directive 2008/115/EC, Member States should:

(a) establish clear rules on the legal status of unaccompanied minors allowing either to issue return decisions and carry out returns or to grant them a right to stay;

(b) ensure that decisions on the legal status of unaccompanied minors are always based on an individual assessment of their best interests. This assessment should systematically take into consideration whether return of an unaccompanied minor to the country of origin and reunification with the family is in their best interests;

(c) put in place targeted reintegration policies for unaccompanied minors;

(d) ensure that the assessment of the best interests of the child is systematically carried out by the competent authorities on the basis of a multi-disciplinary approach, that the unaccompanied minor is heard and that a guardian is duly involved.

(14) In respect of the fundamental rights and of the conditions set by Directive 2008/115/EC, Member States should not preclude in their national legislation the possibility to place minors in detention, where this is strictly necessary to ensure the execution of a final return decision insofar as Member States are not able to ensure less coercive measures than detention that can be applied effectively in view of ensuring effective return.

RISK OF ABSCONDING

(15) Each of the following objective circumstances should constitute a rebuttable presumption that there is a risk of absconding:

(a) refusing to cooperate in the identification process, using false or forged identity documents, destroying or otherwise disposing of existing documents, refusing to provide fingerprints;

(b) opposing violently or fraudulently the operation of return;

(c) not complying with a measure aimed at preventing absconding imposed in application of Article 7(3) of Directive 2008/115/EC, such as failure to report to the competent authorities or to stay at a certain place;

(d) not complying with an existing entry ban;

(e) unauthorised secondary movements to another Member State.

(16) Member States should provide that the following criteria are taken into due account as an indication that an illegally staying third-country nationals poses a risk of absconding:

(a) explicit expression of the intention of non-compliance with a return decision;

(b) non-compliance with a period for voluntary departure;

(c) an existing conviction for a serious criminal offence in the Member States.

VOLUNTARY DEPARTURE

(17) Member States should only grant voluntary departure following a request by the third-country national concerned, while ensuring that the third-country national is well informed of the possibility of submitting such an application.

(18) Member States should provide in the return decision for the shortest possible period for voluntary departure needed to organise and proceed with the return, taking into account the individual circumstances of the case.

(19) In determining the duration of the period for voluntary departure, Member States should assess the individual circumstances of the case, in particular the prospects of return and the willingness of the illegally staying third-country national to cooperate with competent authorities in view of return.

(20) A period longer than seven days should only be granted when the illegally staying third-country national actively cooperate in view of return.

(21) No period for voluntary departure should be granted in the cases provided for in Article 7(4) of Directive 2008/115/EC, notably when the illegally staying third-country poses a risk of absconding as provided for in points 15 and 16 of this Recommendation and in cases of previous convictions for serious criminal offences in other Member States.

ASSISTED VOLUNTARY RETURN PROGRAMMES

(22) Member States should have operational assisted voluntary return programmes by 1 June 2017, which should be in line with the common standards on Assisted Voluntary Return and Reintegration Programmes developed by the Commission in cooperation with Member States and endorsed by the Council ([1]).

(23) Member States should take action to improve their process of disseminating information on voluntary return and assisted voluntary return programmes to illegally staying third-country nationals, in cooperation with national education, social and health services.

ENTRY BANS

(24) For the purpose of making full use of the entry bans, Member States should:

(a) ensure that entry bans start being valid on the day in which the third-country nationals leave the EU so that their effective duration is not unduly shortened; this should be ensured in cases where the date of departure is known to the national authorities, notably in cases of removal and of departure in conjunction with an assisted voluntary return programme;

(b) put in place means to verify if a third country national illegally staying in the European Union has left within the period for voluntary departure, and to ensure an effective follow-up in the case this person has not left, including by issuing an entry ban;

(c) systematically enter an alert on entry ban in the second generation Schengen Information System, in application of Article 24(3) of Regulation (EC) No 1987/2006; and

(d) put in place a system for issuing a return decision in cases where illegal stay is discovered during an exit check. Where justified, following an individual assessment and in application of the principle of proportionality, an entry ban should be issued in order to prevent future risks of illegal stay.

Done at Brussels, 7 March 2017.

For the Commission
Dimitris AVRAMOPOULOS
Member of the Commission

([1]) Council Conclusions of 9-10 June 2016.

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