

COMMISSION DECISION

of 6 November 2006

amending Commission Decisions 2003/804/EC and 2003/858/EC, as regards certification requirements for live molluscs and live fish of aquaculture origin and products thereof intended for human consumption*(notified under document number C(2006) 5167)***(Text with EEA relevance)**

(2006/767/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products⁽¹⁾, and in particular Article 19(1), 20(1) and 21(2) thereof,

Whereas:

- (1) Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs⁽²⁾ lays down the general rules for food business operators on the hygiene of foodstuffs.
- (2) Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific requirements concerning hygiene rules for food of animal origin⁽³⁾ lays down specific requirements concerning hygiene rules for food of animal origin.
- (3) Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁽⁴⁾, lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption.
- (4) Commission Regulation (EC) No 2074/2005⁽⁵⁾ lays down implementing measures for certain products under Regulation (EC) No 853/2004 and for the organisation of official controls under Regulation (EC) No 854/2004 and Regulation (EC) No 882/2004 of the European Parliament and of the Council⁽⁶⁾, derogating from Regulation (EC) No 852/2004 and amending Regulations (EC) No 853/2004 and (EC) No 854/2004.

- (5) Council Directive 95/70/EC⁽⁷⁾ introduces minimum Community measures for the control of certain diseases affecting bivalve molluscs.
- (6) Directive 91/67/EEC provides for the animal health conditions governing the placing on the market of aquaculture animals and products.
- (7) Commission Decision 2003/804/EC of 14 November 2003 laying down animal health conditions and certification requirements for imports of molluscs their eggs and gametes for further growth, fattening, relaying or human consumption⁽⁸⁾, and Commission Decision 2003/858/EC of 21 November 2003 laying down animal health conditions and certification requirements for imports of live fish, their eggs and gametes intended for farming, and live fish of aquaculture origin and products thereof intended for human consumption⁽⁹⁾ lay down the certification requirements for live molluscs and live fish of aquaculture origin and products thereof intended for human consumption.
- (8) In order to simplify the certification procedure for these products, animal health certification requirements laid down in those Decisions have been incorporated into the health certificates drawn up in accordance with Regulation (EC) No 853/2004 for consignments intended for human consumption.
- (9) Decisions 2003/804/EC and 2003/858/EC should therefore be amended accordingly, also taking into account Council Directive COM(2005) 362 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals⁽¹⁰⁾.

⁽¹⁾ OJ L 46, 19.2.1991, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 139, 30.4.2004, p. 1; corrected by OJ L 226, 25.6.2004, p. 3.

⁽³⁾ OJ L 139, 30.4.2004, p. 55; corrected by OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 2076/2005 (OJ L 338, 22.12.2005, p. 83).

⁽⁴⁾ OJ L 139, 30.4.2004, p. 206; corrected by OJ L 226, 25.6.2004, p. 83. Regulation as last amended by Regulation (EC) No 2076/2005.

⁽⁵⁾ OJ L 338, 22.12.2005, p. 27.

⁽⁶⁾ 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).

⁽⁷⁾ OJ L 332, 30.12.1995, p. 33. Directive as last amended by the 2003 Act of Accession.

⁽⁸⁾ OJ L 302, 20.11.2003, p. 22. Decision as last amended by Decision 2005/409/EC (OJ L 139, 2.6.2005, p. 16).

⁽⁹⁾ OJ L 324, 11.12.2003, p. 37. Decision as last amended by Decision 2005/742/EC (OJ L 279, 22.10.2005, p. 71).

⁽¹⁰⁾ Not yet published in the Official Journal.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

- (c) be sent directly to an approved import centre where the molluscs are further processed without prejudice to Annex III Section VII of Regulation (EC) No 853/2004 and Article 6 of Regulation (EC) No 854/2004.

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Decision 2003/804/EC

Decision 2003/804/EC is amended as follows:

1. Article 4 is replaced by the following:

'Article 4

Conditions for the importation of live molluscs for human consumption

1. Member States shall authorise the importation into their territory live molluscs intended for human consumption, only if:

- (a) the third country of dispatch appears on the list established by Commission Decision 2006/766/EC (*);
- (b) the consignment is accompanied by a joint public and animal health certificate drawn up in conformity with the model laid down in Commission Regulation (EC) No 2074/2005;
- (c) the consignment comply with the provisions for packaging and labelling provided for in Regulation (EC) No 853/2004.

2. If molluscs are to be relayed or re-immersed in Community waters, the consignment must also comply with the provisions laid down in Article 3(1).

(*) OJ L 320, 18.11.2006, p. 53.'

2. Article 5 is replaced by the following:

'Article 5

Additional conditions for the importation of certain live molluscs for human consumption

1. Consignments of mollusc species susceptible to one or more of the diseases referred to in Annex D to Directive 95/70/EC must, in addition to the requirements set out in Article 4:

- (a) come from a source without any unresolved abnormal mortality and recognised free from diseases in question in accordance with Community legislation or the relevant OIE (World Organisation for Animal Health) Standard by the competent authority of the third country of origin; or
- (b) be imported as processed or unprocessed products as defined in Article 2(1) of Regulation (EC) No 852/2004; or

2. Consignments of mollusc species susceptible to infection with *Bonamia ostrea* and/or *Marteilia refringens*, imported into Member States or zones being declared free, or under programme for achieving such status in accordance with Articles 5 or 10 of Directive 91/67/EEC, must comply with the following, in addition to the requirements set out in Article 4:

- (a) the source must be recognised free from the relevant disease in accordance with Community legislation or the relevant OIE Standard by the competent authority of the third country of origin; or
- (b) the consignment must be imported as processed or unprocessed products as defined in Article 2(1) of Regulation (EC) No 852/2004; or
- (c) the consignment must be sent directly to an approved import centre where the molluscs are further processed without prejudice to Annex III Section VII of Regulation (EC) No 853/2004 and Article 6 of Regulation (EC) No 854/2004;

3. This Article shall not apply if the molluscs are packed and labelled to be presented for sale to the final consumer in accordance with Regulation (EC) No 853/2004.;

3. In Part A of Annex V, point 2 is replaced by the following:

'2. Viable molluscs may only leave approved import centres if they are packaged and labelled to be presented for sale to the final consumer in accordance with Regulation (EC) No 853/2004.'

Article 2

Amendments to Decision 2003/858/EC

Decision 2003/858/EC is amended as follows:

1. Article 5(1) is replaced by the following:

'Article 5

Conditions for the importation of fish products of aquaculture origin for human consumption

1. Member States shall authorise the importation into their territory of fish products of aquaculture origin intended for human consumption, only if:

- (a) the third country of dispatch appears on the list established by Commission Decision 2006/766/EC (*);

- (b) the consignment is accompanied by a joint public and animal health certificate drawn up in conformity with the model laid down in Commission Regulation (EC) No 2074/2005;
- (c) the consignment comply with the provisions for packaging and labelling provided for in Regulation (EC) No 853/2004.

(*) OJ L 320, 18.11.2006, p. 53'

2. Article 6 is replaced by the following

'Article 6

Additional conditions for the importation of certain fish products of aquaculture origin for human consumption

1. Consignments of fish species susceptible to ISA and/or EHN must, in addition to the requirements set out in Article 5, also comply with the following:

- (a) the source must be recognised free from diseases in question in accordance with Community legislation or the relevant OIE (World Organisation for Animal Health) Standard by the competent authority of the third country of origin, or
- (b) the fish must be eviscerated before dispatch, or
- (c) the consignment must be sent directly to an approved import centre where the fish are further processed.

2. Consignments of fish species susceptible to VHS and/or IHN, imported into Member States or zones being declared free or under programme for achieving such status in accordance with Articles 5 or 10 of Directive 91/67/EEC, must comply with the following, in addition to the requirements set out in Article 5:

- (a) the source must be recognised free from the relevant disease in accordance with Community legislation or the relevant OIE Standard by the competent authority of the third country of origin, or
- (b) the fish must be eviscerated before dispatch, or
- (c) the consignment must be sent directly to an approved import centre where the fish are further processed.'

3. Annexes IV and V are deleted.

Article 3

This Decision shall apply on the seventh day following its publication in the *Official Journal of the European Union*.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 6 November 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission