COMMISSION REGULATION (EC) No 1661/1999

of 27 July 1999

laying down detailed rules for the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 737/90 of 22 March 1990 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station [1], as amended by Regulation (EC) No 686/95 [2], and in particular Article 6 thereof,

(1) Whereas the fallout of radiocaesium from the accident at the Chernobyl power station on 26 April 1986 has affected a wide range of third countries; whereas repeated cases of non-compliance with the maximum permitted levels of radioactive contamination have been recorded in consignments of certain types of mushrooms imported from a number of third countries;

(2) Whereas similar fallout has affected certain parts of the territories of some Member States of the European Union;

(3) Whereas forest and wooded areas generally are the natural habitat of uncultivated mushrooms (the products listed in Annex I) and such ecosystems tend to retain radiocaesium in a cyclic exchange between soil and vegetation;

(4) Whereas, as a result, continual radiocaesium contamination of uncultivated mushrooms has, in the period since the abovementioned accident, hardly declined and may well have increased in the case of certain species;

(5) Whereas the Commission has carried out in 1986 and subsequently updated an assessment of possible risks on human health from contaminated foodstuffs with radioactive caesium; whereas that assessment of possible risks is still valid today, taking into account the physical radioactive period of the substance in question, and, in addition, the maximum permitted level conforms in essence to the level recommended by the Codex Alimentarius Commission;

(6) Whereas, in accordance with Article 4 of Regulation (EEC) No 737/90, the Member States must carry out checks on products originating in third countries;

(7) Whereas the detailed rules for the application of that Regulation are to be found in Commission Regulation (EEC) No 1983/88 [3];

(8) Whereas there is a need to update these provisions and to supplement them by specific conditions for the import of certain products; as appears from the considerations herein set out;

(9) Whereas Council Directive 92/59/EEC of 29 June 1992 on general product safety [4] has set up a system for the rapid exchange of information;

(10) Whereas the measures *in situ* in the territories of the Member States of the European Union flow from the legal obligations of those States pursuant to Articles 35 and 36 of the Euratom Treaty, the Community measures already referred to and national measures and controls which, taken together, are, in terms of equivalence of result, equal to those enacted in this Regulation; whereas the Commission is taking all the necessary measures to ensure that the Member States comply effectively with their legal obligations in this respect;

(11) Whereas even if the provisions for sampling and analysis of various agricultural products merit future consideration, the immediate requirement is to strengthen those provisions with respect to mushrooms;

(12) Whereas in order to allow more efficient controls, it is, as a consequence, necessary to identify a restricted number of customs offices where certain products may be declared for free circulation in the European Union;

(13) Whereas the lists of customs offices and of third countries can be reviewed as appropriate, taking into account *inter alia* future compliance with the maximum permitted levels and other information allowing the Commission to judge whether there is a need to maintain a third country on the list contained in Annex IV;

(14) Whereas for the same reason it is appropriate that export certificates, as referred to in Article 4 of Regulation (EEC) No 737/90, be provided for each consignment of such products;

(15) Whereas it is appropriate that the competent authorities of the Member States be authorised, at their sole discretion, to levy charges for sampling and analysis and for destruction of the product or its return provided that the principle of proportionality is observed in exercising the option of destruction or return and provided also that, in any event, the charges so levied do not exceed the costs incurred;

[1] OJ L 82, 29.3.1990, p. 1.
[2] OJ L 71, 31.3.1995, p. 15.
[3] OJ L 174, 6.7.1988, p. 32.
[4] OJ L 228, 11.8.1992, p. 24.

(16) Whereas the provisions enacted below conform to the international obligations of the European Community, in particular those resulting from the agreements establishing the World Trade Organisation, taking into account the right of the Community to adopt and apply measures that are necessary to achieve the level of sanitary protection chosen in the territory of its Member States;

(17) Whereas the measures provided for in this Regulation are in accordance with the opinion of the *ad hoc* committee referred to in Article 7 of Regulation (EEC) No 737/90,

HAS ADOPTED THIS REGULATION:

Article 1

1. Checks on the radiocaesium content referred to in Article 3 of Regulation (EEC) No 737/90 of products referred to in Article 1 of the same Regulation, to ensure that the maximum permitted levels laid down by the said Regulation are observed shall be carried out by the Member States in which the products are released for free circulation and at the latest at that time.

2. Checks shall be carried out by sampling in accordance with the following minimum standards:

(a) Without prejudice to paragraph 3(b), the choice of the Member State as to the intensity of controls to be carried out shall be made taking account in particular of the degree of contamination of the country of origin, the characteristics of the products in question, the results of the previous checks and the export certificates referred to in Article 3.

(b) Without prejudice to the further measures provided for in Articles 5 and 6 of Regulation (EEC) No 737/90, where a product originating in a third country is recorded as exceeding the maximum permitted levels, checks shall be intensified for all products of the same type originating in the third country in question.

3. Checks on specific products shall be carried out in accordance with the following rules:

(a) For animals for slaughter, the checks shall be carried out without prejudice to the customs rules laid down in Council Regulation (EEC) No 2913/92 [1] and Commission Regulation (EEC) No 2454/93 [2] and to animal health requirements. Clearance of release for free circulation shall be subject to the presentation of a certificate issued by the competent authorities responsible for controls to the effect that the meat in question has undergone the system of checks and that those checks have shown that the maximum permitted levels have not been exceeded.

(b) For products listed in Annex I, originating in third countries listed in Annex IV, documentary checks shall be performed on the basis of the duly completed export certificates referred to in Article 3 accompanying each consignment. Each consignment exceeding 10 kg of fresh product or the equivalent thereof shall be subject to systematic sampling and analysis, taking appropriate account of the information contained in the export certificate. These products may only be declared for free circulation in the Member State of destination in a restricted number of customs offices listed in Annex III.

4. Where failure to comply with the maximum permitted levels is observed in respect of a given product, the competent authorities of the Member State may require the imported product to be destroyed or returned to the country of origin. In the latter case, written evidence that the product has left the territory of the European Community will be forwarded to the customs authority which refused the release for free circulation.

5. For the products referred to in Article 1(1), the competent authorities may, at their sole discretion, levy charges on the importer for the sampling and analysis of products for compliance with Regulation (EEC) No 737/90. For consignments which exceed the maximum permitted levels, the competent authorities may also recover from their intended importer costs associated with either the destruction of the consignment or its return to the country of origin.

Article 2

1. Each Member State shall by analogy apply Article 8 of Directive No 92/59/EEC to notify the Commission without delay of recorded cases of non-compliance with the provisions on maximum permitted levels, set out in Regulation (EEC) No 737/90, stating the country of origin, the description and degree of contamination of the goods, the means of transport, the exporter and the decision taken in respect of the lots in question.

2. Member States shall inform the Commission of the bodies assigned to implement checks.

3. The Commission shall inform the Member States without delay of recorded cases of non-compliance with the maximum permitted levels through the Community Rapid Alert System laid down in Directive No 92/59/EEC.

Article 3

1. The Member States shall ensure that the export certificates issued by the competent authorities of third countries listed in Annex IV shall attest that the products that they accompany comply with the maximum permitted levels laid down in Article 3 of Regulation (EEC) No 737/90. The export certificates shall be compiled using a form printed on white paper in accordance with the specimen in Annex II.

2. The Commission shall communicate to the Member States the details received concerning the authorities authorised in the third countries in question to issue export certificates.

[1] OJ L 302, 13.10.1992, p. 1.
[2] OJ L 253, 11.10.1993, p. 1.

Article 4

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

Article 5

Regulation (EEC) No 1983/88 is repealed.

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

Done at Brussels, 27 July 1999.

For the Commission

Ritt BJERREGAARD

Member of the Commission

ANNEX I

LIST OF PRODUCTS FOR WHICH THE PROVISIONS OF ARTICLE 1(3)(b) SHALL BE FULFILLED

CN Codes	
ex 0709 51	Mushrooms, fresh or chilled, other than cultivated mushrooms
ex 0710 80 69	Mushrooms (uncooked or cooked by steaming or boiling in water), frozen, other than cultivated mushrooms
ex 0711 90 60	Mushrooms provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, other than cultivated mushrooms
ex 0712 30 00	Dried mushrooms, whole, cut, sliced, broken or in powder, but not further prepared, other than cultivated mushrooms
ex 2001 90 50	Mushrooms, prepared or preserved by vinegar or acetic acid, other than cultivated mushrooms
ex 2003 10 80	Mushrooms, prepared or preserved otherwise than by vinegar or acetic acid, other than cultivated mushrooms

ANNEX II

EXPORT CERTIFICATE FOR AGRICULTURAL PRODUCTS (ONE CERTIFICATE PER SPECIES)

This certificate must be lodged in triplicate with the entry for free circulation and be kept by the customs

Statement by the exporter

1. Exporter (name, full address, country)	5. Country of origin	6. Country of destination
2. Consignee (name, full address, country)	7. Invoice(s) number(s)	
3. Identity of means of transport	8. Number and kind of packages	9. Marks and batch numbers
4. Description of products	10. Gross mass (kg)	11. Net mass (kg)
12. I, undersigned, responsible for these exports, certify the above information Date Place Name (in block letters) Signature (2)		

Certification by the laboratory

13. Number of analysed samples from the above products:	15. Identity of the laboratory (name, full address, country)
14. Recorded radioactivity levels for each sample (Bq/kg) (specify the batch No for each sample): Report No ..... Date ..... This report must be presented immediately on the demand of the control authorities	16. Accredited by (name and address of the body)
	17. Date, name (in block letters) signature and stamp of the laboratory (2)

Certification by the competent authority

18. I, undersigned, certify that the accumulated radioactivity level in terms of caesium 134 and 137 for the products described above does not exceed:

370 Bq/kg for milk and milk products and for foodstuffs intended for the special feeding of infants, and 600 bq/kg for all other products listed in the current Commission Regulation relating to Council Regulation (EEC) No 737/90 (1)

Place Date Name (in block letters) Signature (2) Stamp–cachet (2)

(1) Delete as appropriate
(2) Signatures and stamps must be in a different colour from that of the text.

ANNEX III

LIST OF CUSTOMS OFFICES IN WHICH PRODUCTS LISTED IN ANNEX I MAY BE DECLARED FOR FREE CIRCULATION IN THE EUROPEAN COMMUNITY

Member State	Customs offices	
BELGIQUE/BELGIË	Anvers D.E. — voie maritime Bierset — (Grâce-Hollogne) D.E. — voies aériennes et/ou terrestre Bruxelles D.E. — voie aérienne Zaventem D. — voie aérienne	
DANMARK	Every port and airport in Denmark	
DEUTSCHLAND	Baden-Württemberg	HZA Lörrach — ZA Weil am Rhein-Autobahn HZA Stuttgart — ZA Flughafen
	Bayern	HZA München-Flughafen HZA Hof — ZA Schirnding-Landstraße HZA Weiden — ZA Furth im Wald-Schafberg HZA Weiden — ZA Waldhaus-Autobahn
	Berlin	HZA Berlin-Packhof — ZA Marzahn, Abfertigungsstelle Grossmarkthallen HZA Berlin-Packhof — ZA Tegel-Flughafen
	Brandenburg	HZA Frankfurt (Oder) — ZA Autobahn HZA Cottbus — ZA Forst-Autobahn
	Bremen	HZA - Bremen ZA Neustädter Hafen HZA Bremerhaven — ZA Container-Terminal HZA Bremerhaven — ZA Rotersand
	Hamburg	HZA Hamburg-Freihafen — Abfertigungsstelle HZA Hamburg-Freihafen — ZA Ericus-Abfertigungsstelle Südbahnhof Hamburg-Harburg — ZA Köhkleetdamm HZA Hamburg-Hamburg — St. Annen-ZA Altona HZA Hamburg-Hamburg — St. Annen-ZA Oberelbe HZA Hamburg-Waltershof — Abfertigungsstelle HZA Hamburg-Waltershof — ZA Flughafen
	Hessen	HZA Frankfurt am Main-Flughafen
	Meklenburg-Vorpommern	HZA Neubrandenburg — ZA Pomellen — Grenzkontrollstelle Pomellen HZA Schwerin — ZA Rostock-Seehafen — Grenzkontrollstelle Rostock-Seehafen HZA Stralsund — ZA Mukran Grenzkontrollstelle Rügen/Mukran, Im Flughafen
	Niedersachsen	HZA Lüneburg — Abfertigungsstelle HZA Göttingen — Abfertigungsstelle HZA Hannover — Abfertigungsstelle
	Nordrhein-Westfalen	HZA Dortmund — ZA Ost
	Rheinland-Pfalz	HZA Trier — ZA Idar-Oberstein, Grenzkontrollstelle Flughafen Hahn, Gebäude 401
	Sachsen	HZA Dresden — ZA Friedrichstadt, Grenzkontrollstelle Dresden/Friedrichstadt (für Eisenbahntransport) HZA Pirna — ZA Zinnwald, Grenzkontrollstelle Zinnwald (für Straßentransport) HZA Löbau — ZA Ludwigsdorf-Autobahn, Grenzkontrollstelle Ludwigsdorf (für Straßentransport)
	Schleswig-Holstein	HZA Kiel — ZA Wik, Grenzkontrollstelle Kiel Ostuferhafen HZA Lübeck — ZA Travemünde Grenzkontrollstelle
ΕΛΛΑΔΑ	Αθηνών, Περαιά, Κρατικού Αερολιμένα Αθηνών, Θεσ/νίκης, Αερολιμένα Μίκρας, Βόλου, Πατρών, Ηρακλείου, Αερολιμένα Ηρακλείου Κρήτης, Καβάλας, Ιωαννίνων, Ναυπλίου	

Member State	Customs offices
ESPAÑA	Algeciras (Puerto), Alicante (Aeropuerto, Puerto), Almería (Aeropuerto, Puerto), Barcelona (Aeropuerto, Puerto), Bilbao (Aeropuerto, Puerto), Cádiz (Puerto), Cartagena (Puerto), Gijón (Aeropuerto, Puerto), Huelva (Puerto), La Coruña-Santiago de Compostela (Aeropuerto, Puerto), Las Palmas de Gran Canaria (Aeropuerto, Puerto), Madrid-Barajas (Aeropuerto), Málaga (Aeropuerto, Puerto), Palma de Mallorca (Aeropuerto), Pasajes-Irún (Aeropuerto, Puerto), Santa Cruz de Tenerife (Aeropuerto, Puerto), Santander (Aeropuerto, Puerto), Sevilla (Aeropuerto, Puerto), Tarragona (Puerto), Valencia (Aeropuerto, Puerto), Vigo-Villagareia (Aeropuerto), Marín (Puerto), Vitoria (Aeropuerto), Zaragoza (Aeropuerto)
FRANCE	Dunkerque (transport maritime) Lille (transport aérien et terrestre) Marseille (transport aérien, terrestre et maritime) Roissy (transport aérien et terrestre) St Louis/Bâle (transport aérien et terrestre) Strasbourg (transport terrestre)
IRELAND	All customs offices
ITALIA	Ufficio di Sanità marittima ed aerea di Trieste Ufficio di Sanità aerea di Torino-Caselle Ufficio di Sanità aerea di Roma — Fiumicino Ufficio di Sanità marittima ed aerea di Venezia Ufficio di Sanità marittima ed aerea di Genova Ufficio di Sanità marittima di Livorno Ufficio di Sanità marittima ed aerea di Ancona Ufficio di Sanità marittima ed aerea di Brindisi Ufficio di Sanità aerea di Varese — Malpensa Ufficio di Sanità aerea di di Bologna — Panicale Ufficio di Sanità marittima ed aerea di Bari Posto d'Ispezione frontaliera di Chiasso
LUXEMBOURG	Bureau des Douanes et Accises Centre Douanier — Luxembourg Bureau des Douanes et Accises Luxembourg-Aéroport — Niederanven
NEDERLAND	All customs offices
ÖSTERREICH	Drasenhofen (Repulik Tschechien) Berg (Slowakische Republik) Nickelsdorf (Republik Ungarn) Heiligenkreuz (Republik Ungarn) Spielfeld (Republik Slownien) Tisis (Schweiz) Wien Flughafen Schwechat
PORTUGAL	Airports of Lisabon, Porto and faro Ports of Lisbon an Leixões.
SUOMI-FINLAND	Helsinki, Vaalimaa, Niirala, Vartius, Raja-Jooseppi, Utsjoki, Kilpisjärvi
SVERIGE	Arlanda, Göteborg, Landvetter, Helsingborg, Karlskrona, Stockholm, Ystad, Wallhamn, Varberg
UNITED KINGDOM	Belfast International Airport, Port of Belfast, Port of Dover, Port of Falmouth, Port of Felixstowe, Gatwick Airport, Port of Hull, Port of Larne, Port of London, Port of Southampton

ANNEX IV

LIST OF THIRD COUNTRIES REFERRED TO IN ARTICLE 3

Albania
Belarus
Bosnia and Herzegovina
Bulgaria
Croatia
Czech Republic
Estonia
Hungary
Latvia
Liechtenstein
Lithuania
Former Yugoslav Republic of Macedonia
Moldova
Norway
Poland
Romania
Russia
Slovak Republic
Slovenia
Switzerland
Turkey
Ukraine
Federal Republic of Yugoslavia