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COM(2007) 291 final

2007/0101 (ACC)

Proposal for a

**COUNCIL REGULATION**

**on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station**

**(Codified version)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

- 1 In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided<sup>1</sup> to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this<sup>2</sup> stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of 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<sup>3</sup>. The new Regulation will supersede the various acts incorporated in it<sup>4</sup>; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.
5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Regulation (EEC) No 737/90 and the instruments amending it, carried out by the Office for Official Publications of the European

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<sup>1</sup> COM(87) 868 PV.

<sup>2</sup> See Annex 3 to Part A of the Conclusions.

<sup>3</sup> Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis Communautaire, COM(2001) 645 final.

<sup>4</sup> See Annex III to this proposal.

Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex IV to the codified Regulation.

Proposal for a

**COUNCIL REGULATION**

**on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Whereas:

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- (1) 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<sup>3</sup> has been substantially amended several times<sup>4</sup>. In the interests of clarity and rationality the said Regulation should be codified.

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↓ 737/90 Recital 1

- (2) Following the accident at the Chernobyl nuclear power-station on 26 April 1986, considerable quantities of radioactive elements were released into the atmosphere.

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↓ 737/90 Recital 3 (adapted)

- (3) Without prejudice to the possibility of resorting, where necessary, in the future to the provisions of Council Regulation (Euratom) No [3954/87 of 22 December 1987 laying down maximum permitted levels of radioactive contamination of foodstuffs and of

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ L 82, 29.3.1990, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>4</sup> See Annex III.

feedingstuffs following a nuclear accident or any other case of radiological emergency<sup>5</sup>], the Community  should  ensure, with regard to the specific effects of the accident at Chernobyl, that agricultural products and processed agricultural products intended for human consumption and likely to be contaminated are introduced into the Community only according to common arrangements.

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↓ 737/90 Recital 4

- (4) Those common arrangements should safeguard the health of consumers, maintain, without having unduly adverse effects on trade between the Community and third countries, the unified nature of the market and prevent deflections of trade.
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↓ 737/90 Recital 6 (adapted)

- (5) Compliance with the maximum permitted levels  should  be the subject of appropriate checks, which may lead to prohibiting imports in cases of non-compliance.
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↓ 737/90 Recital 7 (adapted)

- (6) Radioactive contamination in many agricultural products has decreased and will continue to decrease to the levels existing before the Chernobyl accident. A procedure should therefore be established enabling such products to be excluded from the scope of Regulation (Euratom) No  [3954/87] .
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↓ 737/90 Recital 8 (adapted)

- (7) Since this Regulation covers all agricultural products and processed agricultural products intended for human consumption, there is no need, in the present case, to apply the procedure  referred to  in Article  14  of  Council  Directive  2004/68/EC<sup>6</sup> .
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↓ 737/90 Recital 9 (adapted)

- (8)  The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>7</sup>,

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<sup>5</sup> [OJ L 371, 30.12.1987, p. 11. Regulation as amended by Regulation (Euratom) No 2218/89 (OJ L 211, 22.7.1989, p. 1).]

<sup>6</sup> OJ L 139, 30.4.2004, p. 320.

<sup>7</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

HAS ADOPTED THIS REGULATION:

*Article 1*

With the exception of the products unfit for human consumption listed in Annex I and those products which may come to be excluded from the scope of this Regulation  in accordance with  the procedure  referred to  in Article 5(2), this Regulation shall apply to the products originating in third countries covered by:

- (a) Annex  I  to the Treaty;
- (b) Council Regulation [(EEC) No 2730/75 <sup>8</sup>];
- (c) Council Regulation [(EEC) No 2783/75 <sup>9</sup>];
- (d) Council Regulation (EC) No  3448/93   <sup>10</sup> ;
- (e) Council  Regulation (EC) No 776/94  <sup>11</sup> .

*Article 2*

1.  Without prejudice to other provisions in force, the release for free circulation of the products referred to in Article 1 shall be subject to compliance with the maximum permitted levels laid down in  paragraph 2  :

2.  The accumulated maximum radioactive level in terms of caesium – 134 and – 137 shall be<sup>12</sup>:

- (a) 370 Bq/kg for milk and milk products listed in Annex II and for foodstuffs intended for the special feeding of infants during the first four to six months of life, which meet, in themselves, the nutritional requirements of this category of persons and are put up for retail sale in packages which are clearly identified and labelled 'food preparation for infants';
- (b) 600 Bq/kg for all other products concerned.

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<sup>8</sup> [OJ L 281, 1.11.1975, p. 20.]

<sup>9</sup> [OJ L 282, 1.11.1975, p. 104.]

<sup>10</sup>  OJ L 318, 20.12.1993, p. 18.

<sup>11</sup> OJ L 91, 8.4.1994, p. 6.

<sup>12</sup> The level applicable to concentrated or dried products shall be calculated on the basis of the reconstituted product as ready for consumption.

### *Article 3*

1. Member States shall check compliance with the maximum permitted levels laid down in Article 2(2) in respect of the products referred to in Article 1, taking into account contamination levels in the country of origin.

Checking may also include the presentation of export certificates.

Depending on the results of the checks carried out, Member States shall take the measures required for Article 2(1) to apply, including the prohibition of release for free circulation, taking each case individually or generally for a given product.

2. Each Member State shall provide the Commission with all information concerning the application of this Regulation, notably cases of non-compliance with the maximum permitted levels.

The Commission shall circulate such information to the other Member States.

⊗ 3. ⊗ Where cases of repeated non-compliance with the maximum permitted levels have been recorded, the necessary measures may be taken in accordance with the procedure ⊗ referred to ⊗ in Article 5(2).

Such measures may even include the prohibition of the import of products originating in the third country concerned.

### *Article 4*

The arrangements for applying this Regulation, any amendments to be made to the products in Annex I, and the list of products excluded from this Regulation shall be adopted in accordance with the procedure ⊗ referred to ⊗ in Article 5(2).

### *Article 5*

1. The Commission shall be assisted by a committee.

2. Where reference is made to this ⊗ paragraph ⊗, Articles 5 and 7 of Decision 1999/468/EC shall apply.

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↓ 806/2003 Art. 3 and Annex III  
pt. 7

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

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*Article 6*

Council Regulation (EEC) No 737/90 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex IV.

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↓ 737/90 (adapted)

*Article 7*

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

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↓ 616/2000 Art. 1(c)

It shall expire:

- (a) on 31 March 2010, unless the Council decides otherwise at an earlier date, in particular if the list of excluded products referred to in Article 4 covers all the products fit for human consumption to which this Regulation applies;
  - (b) on the entry into force of the Commission Regulation provided for in Article 2(1) of Regulation (Euratom) No [3954/87], if such entry into force takes place before 31 March 2010.
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↓ 737/90

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

Done at Brussels,

*For the Council  
The President*



**ANNEX I**

**Products unfit for human consumption**

CN code	Description
ex 0101 ☒ 10 10 ☒	Racehorses
☒ ex 0101 90 19 ☒	
ex 0106	Other (live animals, excluding domestic rabbits and pigeons: not for human consumption)
ex 0301	Live ornamental fish
0408 11 ☒ 20 ☒	Eggs, not in shell, and egg yolks, unfit for human consumption <sup>1</sup>
0408 19 ☒ 20 ☒	
0408 91 ☒ 20 ☒	
0408 99 ☒ 20 ☒	
ex 0504 ☒ 00 00 ☒	
0511 10 00	Animal products not elsewhere specified or included, excluding edible animal blood; dead animals of Chapter 1 or Chapter 3, unfit for human consumption
ex 0511 91 90	
0511 99	
☒ ex ☒ 0713	Dried leguminous vegetables, shelled, whether or not skinned or split, for sowing
1001 90 10	Spelt for sowing <sup>2</sup>
1005 10 11	Hybrid maize for sowing <sup>3</sup>
1005 10 13	
1005 10 15	
1005 10 19	

<sup>1</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.  
<sup>2</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.  
<sup>3</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.



1503 00 30	Tallow oil for industrial uses other than the manufacture of foodstuffs for human consumption <sup>10</sup>
1505 ☒ 00 ☒	Wool grease and fatty substances derived therefrom (including lanolin)
1507 10 10	Soya bean oil and its fractions, whether or not refined; but not chemically modified, for technical uses other than the manufacture of foodstuffs for human consumption <sup>11</sup>
1507 90 10	
1508 10 10	Ground-nut oil and its fractions, whether or not refined but not chemically modified, for technical or industrial uses other than the manufacture of foodstuffs for human consumption <sup>12</sup>
1508 90 10	

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<sup>10</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

<sup>11</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

<sup>12</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

1511 10 10	Crude palm oil and its fractions, whether or not refined, but not chemically modified, for technical or industrial uses other than the manufacture of foodstuffs for human consumption <sup>13</sup>
1515 30 10	Castor oil and its fractions for the production for the production of aminoundecanoic acid for use in the manufacture of synthetic textile fibres or of artificial plastic materials <sup>14</sup>
1515 ☒ 90 11 ☒	Tung oil ☒ ; jojoba and oiticica oils; myrtle wax and Japan wax; their ☒ fractions
1511 90 91	Other oils for technical or industrial uses other than the manufacture of foodstuffs for human consumption <sup>15</sup>
1512 11 ☒ 10 ☒	
1512 19 10	
1512 21 10	
1512 29 10	
1513 11 10	
1513 19 30	
1513 21 ☒ 10 ☒	
1513 29 30	
1514 ☒ 11 ☒ 10	
1514 ☒ 19 ☒ 10	
☒ 1514 91 10 ☒	
☒ 1514 99 10 ☒	
1515 19 10	
1515 21 10	
1515 29 10	
1515 50 11	
1515 50 91	

<sup>13</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

<sup>14</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

<sup>15</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

1515 90 21	
1515 90 31	
1515 90 40	
1515 90 60	
1516 20 ☒ 95 ☒	
1518 00 31	Fixed vegetables oils, fluid, mixed, for technical or industrial uses other than the manufacture of foodstuffs for human consumption <sup>16</sup>
1518 00 39	
2207 20 00	Ethyl alcohol and other spirits; denatured, of any strength
☒ 3824 ☒ 10 00	Prepared binders for foundry moulds or cores
4501	Natural cork, raw or simply prepared; waste cork; crushed granulated or ground cork
5301 10 00	Flax, raw or processed but not spun
5301 21 00	
5301 29 00	
5302	True hemp ( <i>Cannabis sativa</i> L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)
ex Chapter 6	Live trees and other plants; bulbs, roots and the like, cut flowers and ornamental foliage, excluding plants and roots of chicory of subheading 0601 20 10

<sup>16</sup> Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

**ANNEX II**

**Milk and milk products to which a maximum permitted level of 370 Bq/kg applies**

CN codes    0401  
                  0402  
                  0403 10 11 to 39  
                  0403 90 11 to 69  
                  0404

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### **ANNEX III**

#### **Repealed Regulation with list of its successive amendments**

Council Regulation (EEC) No 737/90  
(OJ L 82, 29.3.1990, p. 1)

Council Regulation (EC) No 686/95  
(OJ L 71, 31.3.1995, p. 15)

Council Regulation (EC) No 616/2000  
(OJ L 75, 24.3.2000, p. 1)

Council Regulation (EC) No 806/2003                      point 7 of Annex III only  
(OJ L 122, 16.5.2003, p. 1)

## ANNEX IV

### CORRELATION TABLE

Regulation (EEC) No 737/90	This Regulation
Article 1, introductory words	Article 1, introductory words
Article 1, first indent	Article 1(a)
Article 1, second indent	Article 1(b)
Article 1, third indent	Article 1(c)
Article 1, fourth indent	Article 1(d)
Article 1, fifth indent	Article 1(e)
Article 2	Article 2 (1)
Article 3, first introductory sentence	-
Article 3, second introductory sentence	Article 2(2) introductory sentence
Article 3, first and second indent	Article 2(2) (a) and (b)
Article 4(1) first, second and third sentence	Article 3(1) first, second and third subparagraph
Article 4(2) first and second sentence	Article 3(2) first and second subparagraph
Article 5 first and second sentence	Article 3(3) first and second subparagraph
Article 6	Article 4
Article 7	Article 5
-	Article 6
Article 8, first paragraph	Article 7, first paragraph
Article 8, second paragraph, introductory words	Article 7, second paragraph, introductory words
Article 8, second paragraph, point 1	Article 7, second paragraph, point (a)
Article 8, second paragraph, point 2	Article 7, second paragraph, point (b)
Annex I	Annex I
Annex II	Annex II



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Annex III  
Annex IV

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