

TURKISH SPS MEASURES APPLIED TO IMPORTATION OF BANANAS

Replies from Turkey

The Permanent Mission of Turkey has communicated the following replies to questions from Ecuador (G/SPS/GEN/249) regarding Turkey's measures on imports of bananas.

1. **Is Turkey's "Kontrol Belgesi" system an SPS mechanism? Is it an import-monitoring instrument? Or is it a specific trait of a de facto import licensing system?**

Reply

"Kontrol Belgesi" is a reference document needed at customs proceedings and food safety analyses during the border controls. In addition to information on exporter/importer, country of origin and customs statistical position number "Kontrol Belgesi" also contains the declaration of importers stating that their foods will be in full conformity with related Turkish Food Codex Regulation requirements which are in compliance with SPS requirements and Codex Alimentarius. "Kontrol Belgesi" is requested for the laboratory controls at the border.

All importers are eligible to apply for "Kontrol Belgesi". They can apply for it as many times as they want. Importers can also apply for this document in advance, before a consignment comes to the customs/port. The system is applied to all foods imported from all countries. The Ministry of Agriculture and Rural Affairs responds without delay to all applications for issuance of "Kontrol Belgesi".

2. **Please cite and provide copies of the exact laws, regulations and/or administrative orders under which the "Kontrol Belgesi" system is maintained.**

Reply

The "Kontrol Belgesi" system is covered in the "Communiqué for Standardization in Foreign Trade" published in the Official Gazette annually by the Under-Secretariat of Foreign Trade. (Annex-1) Official Gazette 24271 of 25.12.2000.

- 3. Do the laws establishing the "Kontrol Belgesi" system provide for quantity limitations? If so, on what legal basis? If there is no legal basis, please describe the practice and the responsible authorities.**

Reply

The "Kontrol Belgesi" system is not intended in any way to restrict the quantity of importation of the foods. This is a reference document according to which laboratory analyses are realised; while issuing "Kontrol Belgesi" the capacity of the existing laboratories is taken into account.

- 4. We understand that, until November 1999, "Kontrol Belgesi" for the importation of bananas were not subject to quantity limitations and were in practice issued for up to 1.000.000 boxes. During the November 1999/December 2000 period, the issuance of each "Kontrol Belgesi" was limited by MARA to the quantity of 10.000 boxes or 200 tonnes of bananas. This limit has now risen to 52.000 boxes per "Kontrol Belgesi" in December 2000. Is this information correct?**

Reply

Figures in "Kontrol Belgesi" are not for quantity limitation. If there had been any quantity limitations, many documents would not have been issued consequently to the same firms, which are importing Ecuador originated bananas. In addition, Turkey's banana importation has not dropped to a level below the average of previous years.

The limits of pesticides that might be found in fresh fruits and vegetables, both imported and produced, are cited as MRLs by the Turkish Food Codex Regulation. For imported foods this inspection is conducted during the importation. During the border controls the imported products are checked for the residues and quarantine control.

For bananas, Codex Alimentarius Commission (CAC) and Turkish Food Codex Regulation cover limits of certain pesticides. However, Ecuador provides residue reports on limits of which are not contained in any codex. Thus, Turkish authorities have to authorize imports after checking not only the residues established by Codex, but also those other residues. Thus, the control takes more time.

On the other hand, only five laboratories have the necessary equipment for control of residues. Due to insufficient capacity of laboratories, and with confidence that analysis reports submitted by importers at the application stage reflect the actual limits, "Kontrol Belgesi" was issued for demanded quantities in the past. In this respect, during this period, some analyses showed that the existing reports and analysis results in Turkey did not match with each other. In addition, during this period complaints from consumers increased as well. Consequently, these subjects are obliging Turkey to give priority for the laboratory analyses.

Since then, taking into consideration the capacity of the existing laboratories "Kontrol Belgesi" has been issued for the quantities for which an effective control can be provided at one time.

WTO recognizes the necessity of human health protection and gives members some flexibility to implement their individual health control systems. (It states that nothing shall prevent Members from carrying out reasonable inspection within their own territories.)

- 5. Has the requirement for these quantity limitations been published? If so, where? If not, in what way has it been brought to the attention of the importers?**

Reply

Transparency is one of the main pillars of the liberal world trading system and MARA provides all information to related organizations of commerce.

- 6. Have the various changes in the administration of the "Kontrol Belgesi" system been notified to the WTO? If so, when and under what notification procedure? If not, why?**

Reply

Kontrol Belgesi does not cover product control. It is a reference document containing some information such as foodstuffs to be imported, origin, importers and also the declaration of importers that their goods will be in full conformity with related Turkish requirements (See A.1). A person who obtains a Kontrol Belgesi document may use it during its validation period.

Food safety controls begin at the point of customs entry of commodities. The criteria applied fully comply with the requirements of SPS and international rules.

- 7. How is the size of the quantity limitation determined? How many control laboratories are involved in the inspection of bananas imports? Is it all 15 existing control laboratories or only selected ones? Please provide the exact number and location.**

Reply

Quantities foreseen in Kontrol Belgesi are determined according to the infrastructure and capacity of existing laboratories. In three provinces (Istanbul, İzmir and İçel), where the biggest customs ports of entry for food are located, and in other provinces (Bursa, Ankara), residue and hormone analyses in bananas are being carried out. More efficient controls can be made if the infrastructure of the food control laboratories is strengthened.

- 8. What are the rules on the sampling procedures applied by the Turkish laboratories and customs authorities? Have they been published? Are they in line with the internationally recognized standards? Please provide reference to the international standards applied, if any.**

Reply

Turkey has been a member of WTO and CAC for years and Turkey's food regulation has been continuously updated. For that reason, sampling procedures are defined clearly in the Turkish Food Codex Regulation. Also, there is a provision, which stipulates that "in case a national regulation for import is not available, international regulations will be applied". Therefore, food controls are in line with the international standards.

Sampling procedures have been published in Turkish Food Codex Regulation. It is in compliance with CAC norms and EC Directives. Procedures are determined and implemented by Ministry directives.

- 9. What percentage of a banana consignment of 52.000 boxes is actually inspected and controlled in the laboratories for SPS certification? Has this percentage coefficient remained the same during the three periods (i.e. pre-November 1999, November 1999/December 2000, post-December 2000) marked by different quantity limitations?**

Reply

During the actual importation, inspection is made according to the sampling procedures laid down in the Turkish Food Codex Regulation as well as to the rate representing the whole banana quantity to be imported. Samples are checked in laboratories in relation to food safety criteria, which are in conformity with SPS rules. This approach has also been applied in the periods mentioned in the question.

- 10. What are the minimum and maximum lengths of time for processing applications for "Kontrol Belgesi" and for carrying out the inspections? How much time remains, at a minimum, between the issuance of a "Kontrol Belgesi" and the actual date of opening of the period of importation and customs clearance? Please provide available administrative records.**

Reply

"Kontrol Belgesi" is issued before the consignment comes to the customs/port. Following the issuance of "Kontrol Belgesi", if desired the consignment may be imported within the validation period. Issuance of "Kontrol Belgesi" varies according to the intensity of requests for other foodstuffs. There is not a fixed period. They are issued in three to seven working days, depending on the application time and completeness of the documents. However, some importers bring the commodity to the port without obtaining Kontrol Belgesi. Although they have the right to apply for the application of Kontrol Belgesi before the consignment is brought to the port, it is observed they do not follow this procedure.

- 11. Are there any limitations as to the period of the year during which application for "Kontrol Belgesi" can be made? If so, please cite and provide copy of the regulations establishing the restrictions.**

Reply

All importers are eligible for applying for "Kontrol Belgesi" and they can apply whenever they wish to do so.

- 12. What is the period of validity of a "Kontrol Belgesi"? Currently it appears that its duration is limited to 1 October 2001? On what basis is that so? Can its validity be extended? If yes, how?**

Reply

The period of validity of a "Kontrol Belgesi" changes between 4 to 12 months. According to the above-mentioned communiqué, validity can not be extended. However, importers who do not possess a valid "Kontrol Belgesi" may make a new application.

- 13 Under what circumstances may an application for a "Kontrol Belgesi" be refused? What are the ordinary criteria for refusal? Is the quantity limitation one of them? Are the reasons for any refusal given to the applicant?**

Reply

A "Kontrol Belgesi" application is returned to the applicant in case of absence of proper information with the necessary explanation. When the deficiencies are completed, there also exists a second right for application.

- 14. Is a right of appeal accorded to the applicants in the event of refusal to issue a "Kontrol Belgesi"? If so, what bodies are competent to decide the appeal and what are the procedures? Please provide copy of the relevant regulations, if any.**

Reply

Yes, applicants, whose applications are refused for one or another reason have the right of appeal.

The Constitution of the Republic of Turkey, Article 125 (*as amended on August 13, 1999*). Recourse to judicial review shall be available against all actions and acts of administration. Under the Administrative Jurisdiction Procedure Law of 2577 (Official Gazette No. 17580 dated 20 January 1982), there is a right of appeal accorded to the applicants in the event of refusal.

- 15. What information is required in a proper application for a "Kontrol Belgesi"? Please submit a sample form.**

Reply

A "Kontrol Belgesi" form, annexed to the Communiqué for Standardization in Foreign Trade No: 2001/5, should be filled in by the importers (Annex-2).

- 16. What documents is an importer required to supply with the application? What documents are required upon actual importation?**

Reply

Besides the form of Kontrol Belgesi, a pro forma invoice and a pesticide analysis report of the product are required during the certification of Kontrol Belgesi for fresh fruits and vegetables. At the stage of actual importation a phytosanitary certificate is required.

- 17. Do the same rules and procedures for SPS certification apply to domestically produced bananas? Is there an identical obligation on domestic producers to obtain a "Kontrol Belgesi" and to undergo SPS control and certification ahead of placing the bananas on the market? If so, what is the legal basis?**

Reply

In accordance with Article 13 of the Regulation on the Production, Consumption and Inspection of Foodstuffs published on 9 June 1998, the same provisions are applied to imported and domestically produced foods, in relation to food safety. For instance, maximum pesticide limits in bananas are the same for domestic and imported products. Domestically produced foods are analyzed during their production process; thus, domestic foods compliance with the regulation is certified by

laboratory reports taken during this process. Due to the fact that the production stages of products produced abroad cannot be monitored, they are checked during the importation stage.

18. Are there quantity limitations on the issuance of "Kontrol Belgesi" for domestically produced bananas? If so, is it the same that for imported bananas? If not, what is it and why is it different? Please cite and provide copies of the relevant regulations.

Reply

As mentioned before, domestic products are analyzed during their production process, thus "Kontrol Belgesi" is necessary only for all imported products.

ANNEX-1

COMMUNIQUÉ ON STANDARDIZATION IN FOREIGN TRADE

Circular No: (2001/5)

25.12.2000/24271

Article 1

In accordance with point (g) of Article 2 of "Decision on Standardization Regime and Technical Arrangements in Foreign Trade" which is put into force with the Decision of Council of Ministers 96/7794 of 8.1.1996, in imports of the substances laid down in the lists of this Circular, the compliance of these substances with human health and safety, sanitary and phytosanitary is certified with a Control Certificate. This certification is required by the concerned customs office during the delivery of goods to concerned person, in line with the purposes foreseen by the Regime for Accession to Free circulation, Regime of internal processing for re-export, processing Regime under the Customs Control and Interim import Regime.

Article 2

To obtain a Control Certificate, application is made to the concerned Ministry or to the Provincial Directorates with 3 copies of Control Certificate form (Annex VII), proforma invoice or invoice and depending on the product variety, other documents required by the Ministry of Agriculture and Rural Affairs.

T.C.

**MINISTRY OF AGRICULTURE AND RURAL AFFAIRS
GENERAL DIRECTORATE OF PROTECTION AND CONTROL**

Control Certificate

Customs Tariff Item Number	:	
Name of substance(*)	:	
At which list, it lays down	:	Annex VI
Name, address, telephone number of importing firm	:	
Tax register number	:	
Name, address, telephone number of exporting firm	:	
Purpose of goods to be used	:	
Quantity of goods	:	
Origin country of goods	:	
Country of dispatch	:	
Entry customs gate of goods	:	
Name, address, telephone number of firm which will use the goods	:	

According to specification of substance to be imported, put the following letters of A and/or B and/or C in a round. (if commodity is in B group, underline the related section)

A-It is in compliance with the provisions of Decree 560 on the production, consumption and inspection of foodstuffs.

B-It is in compliance with the specifications of European Community, World Health Organization, Codex Alimentarius.

C-It is in compliance with the provisions of Feed Law 1734 of 29.5.1973.

D-It is in compliance with the provisions of Animal Health Law 3285 and Animal Breeding Law 904.

E-It is in compliance with the provisions of Law 6968 on Plant Protection and Plant Quarantine.

F-It is in compliance with the provisions of Law 308 on the license, control and certification of seeds.

G-It is in compliance with the Law 1380 on fishery products.

(*) In case there is more than one substance under one name on the proforma invoice, original names will be defined separately

We certify that the information indicated in forms is true and complete and they will be imported in comply with the provisions of Directive 2001/5 on the standardization in Foreign Trade.

Firm Title

Authorized signature

In result of checking carried out in accordance with the concerned Directive, the substance covered in the annexed invoice is found appropriate for import as regards human health and safety, animal and plant existence and health.

This document is issued to present to the concerned customs office.

Signature and seal
