

COMMISSION IMPLEMENTING REGULATION (EU) 2019/35**of 8 January 2019****amending Regulation (EC) No 669/2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin****(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 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽¹⁾, and in particular Article 15(5) and 63(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 669/2009 ⁽²⁾ lays down rules concerning the increased level of official controls to be carried out on imports of feed and food of non-animal origin listed in Annex I thereto ('the list'), at a designated point of entry ('DPE') into the territories referred to in Annex I to Regulation (EC) No 882/2004.
- (2) Pursuant to Regulation (EC) No 669/2009, Member States are required to submit to the Commission biannually a report on consignments of feed and food in the list, including details of each consignment, the number of consignments subjected to sampling for analysis and the results of the official controls carried out in accordance with Regulation (EC) No 669/2009. Certain Member States register the common entry documents issued by their respective competent authorities in accordance with Regulation (EC) No 669/2009 on a voluntary basis in the Trade Control and Expert System (TRACES) established by Commission Decisions 2003/24/EC ⁽³⁾ and 2004/292/EC ⁽⁴⁾, thus providing the Commission with details of each consignment, the number of consignments subjected to sampling for analysis and the results of the checks provided for in Regulation (EC) No 669/2009. The reporting obligation should therefore be deemed to be satisfied where Member States register in TRACES the common entry documents issued in accordance with Regulation (EC) No 669/2009 during the reporting period set out in that Regulation.
- (3) Article 19(1) of Regulation (EC) No 669/2009 provides for a transitional period during which the minimum requirements for the DPEs may be progressively implemented and identity and physical checks may be carried out at control points other than DPEs. This transitional period was extended by Commission Implementing Regulation (EU) No 718/2014 ⁽⁵⁾ until 14 August 2019, pending the outcome of the review of the provisions applicable to DPEs and to border controls in general. That review resulted in the adoption of Regulation (EU) 2017/625 of the European Parliament and of the Council ⁽⁶⁾, which is to apply from 14 December 2019. That Regulation provides that delegated acts are to be established concerning rules establishing the cases where and the conditions under which identity and physical checks on consignments of goods subject to a temporary

⁽¹⁾ OJ L 165, 30.4.2004, p. 1.

⁽²⁾ Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC (OJ L 194, 25.7.2009, p. 11).

⁽³⁾ Commission Decision 2003/24/EC of 30 December 2002 concerning the development of an integrated computerised veterinary system (OJ L 8, 14.1.2003, p. 44).

⁽⁴⁾ Commission Decision 2004/292/EC of 30 March 2004 on the introduction of the Traces system and amending Decision 92/486/EEC (OJ L 94, 31.3.2004, p. 63).

⁽⁵⁾ Commission Implementing Regulation (EU) No 718/2014 of 27 June 2014 amending Regulation (EC) No 669/2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin (OJ L 190, 28.6.2014, p. 55).

⁽⁶⁾ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

increase of official controls may be performed by competent authorities at control points other than border control posts. Since those rules are to apply from 14 December 2019, it is appropriate to extend the transitional period until the day before that date.

- (4) Article 2 of Regulation (EC) No 669/2009 provides that the list in Annex I to that Regulation is to be reviewed on a regular basis, and at least biannually, taking into account the sources of information referred to in that Article.
- (5) The occurrence and relevance of recent food incidents notified through the Rapid Alert System for Food and Feed, as established by Regulation (EC) No 178/2002 ⁽⁷⁾ of the European Parliament and of the Council, information regarding official controls performed by Member States on feed and food of non-animal origin as well as the biannual reports on consignments of feed and food of non-animal origin submitted by Member States to the Commission in accordance with Article 15 of Regulation (EC) No 669/2009, indicate that the list should be amended.
- (6) In particular, for consignments of aubergines from the Dominican Republic, beans from Kenya and peppers (other than sweet) from Uganda, the relevant sources of information indicate the emergence of new risks to human health due to possible pesticide residues contamination, requiring the introduction of an increased level of official controls. In addition, for consignments of black pepper from Brazil, sweet peppers from China and sesamum seeds from Ethiopia, the relevant sources of information indicate the emergence of new risks to human health due to possible *Salmonella* contamination requiring the introduction of an increased level of official controls. Entries concerning those consignments should therefore be included in the list.
- (7) In addition, it is appropriate to delete the entries for commodities for which the available information indicates an overall satisfactory degree of compliance with the relevant safety requirements provided for in Union legislation and for which an increased level of official controls is therefore no longer justified. The entry in the list concerning pineapples from Benin should therefore be deleted.
- (8) Moreover, it is appropriate to increase the frequency of identity and physical checks on commodities for which the relevant sources of information indicate a degree of non-compliance with the relevant requirements provided for in Union legislation warranting an increased level of official controls. The entries in the list concerning sweet peppers and peppers (other than sweet) from Egypt, peppers (other than sweet) from India and Pakistan, peppers (sweet or other than sweet) from Sri Lanka and hazelnuts from Georgia should therefore be amended accordingly.
- (9) The scope of the entry concerning hazelnuts from Georgia should be amended to include forms of the product other than the ones currently listed, where those other forms present the same risk. It is therefore appropriate to amend the existing entry concerning hazelnuts from Georgia to include flour, meal and powder of hazelnuts and hazelnuts, otherwise prepared or preserved.
- (10) In order to ensure consistency and clarity, it is appropriate to replace Annex I to Regulation (EC) No 669/2009 by the text set out in the Annex to this Regulation.
- (11) 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

Amendments to Regulation (EC) No 669/2009

Regulation (EC) No 669/2009 is amended as follows:

- (1) In Article 15, the following paragraph 4 is added:

‘4. The reporting obligations set out in paragraphs 1 and 2 shall be deemed to be satisfied where Member States have registered in TRACES the common entry documents issued by their respective competent authorities in accordance with this Regulation during the reporting period set out in paragraph 1.’

⁽⁷⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

(2) In Article 19, paragraph 1 is replaced by the following:

‘1. Until 13 December 2019, where a designated point of entry is not equipped with the facilities required to carry out identity and physical checks as provided for in Article 8(1)(b), those checks may be carried out at another control point in the same Member State, authorised for that purpose by the competent authority, before goods are declared for release for free circulation, provided that such control point complies with the minimum requirements laid down in Article 4.’

(3) Annex I is replaced by the text set out in the Annex to this Regulation.

Article 2

Entry into force and application

This Regulation shall enter into force on the third 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, 8 January 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

'ANNEX I

Feed and food of non-animal origin subject to an increased level of official controls at the designated point of entry

Feed and food (intended use)	CN code (1)	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
— Groundnuts (peanuts), in shell	— 1202 41 00		Bolivia (BO)	Aflatoxins	50
— Groundnuts (peanuts), shelled	— 1202 42 00				
— Peanut butter	— 2008 11 10				
— Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 2008 11 91; 2008 11 96; 2008 11 98				
— Black pepper (Piper) (Food – neither crushed nor ground)	ex 0904 11 00	10	Brazil (BR)	Salmonella (2)	20
Goji berries (wolfberries) (<i>Lycium barbarum</i> L.) (Food — fresh, chilled or dried)	ex 0813 40 95; ex 0810 90 75	10 10	China (CN)	Pesticide residues (3) (4)	10
Sweet peppers (<i>Capsicum annuum</i>) (Food – crushed or ground)	ex 0904 22 00	11	China (CN)	Salmonella (2)	20
Tea, whether or not flavoured (Food)	0902		China (CN)	Pesticide residues (3) (5)	10
Aubergines (<i>Solanum melongena</i>) (Food – fresh or chilled)	0709 30 00		Dominican Republic (DO)	Pesticide residues (3)	20
— Sweet peppers (<i>Capsicum annuum</i>)	— 0709 60 10; 0710 80 51		Dominican Republic (DO)	Pesticide residues (3) (6)	20
— Peppers (other than sweet) (<i>Capsicum</i> spp.)	— ex 0709 60 99; ex 0710 80 59	20 20			
— Yardlong beans (<i>Vigna unguiculata</i> spp. <i>sesquipedalis</i> , <i>vigna unguiculata</i> spp. <i>unguiculata</i>) (Food — fresh, chilled or frozen)	— ex 0708 20 00; ex 0710 22 00	10 10			
— Sweet peppers (<i>Capsicum annuum</i>)	— 0709 60 10; 0710 80 51				
— Peppers (other than sweet) (<i>Capsicum</i> spp.) (Food — fresh, chilled or frozen)	— ex 0709 60 99; ex 0710 80 59	20 20	Egypt (EG)	Pesticide residues (3) (7)	20
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Ethiopia (ET)	Salmonella (2)	50

Feed and food (intended use)	CN code ⁽¹⁾	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
— Hazelnuts, in shell	— 0802 21 00		Georgia (GE)	Aflatoxins	50
— Hazelnuts, shelled	— 0802 22 00				
— Flour, meal and powder of hazelnuts	— ex 1106 30 90	40			
— Hazelnuts, otherwise prepared or preserved	— ex 2008 19 19;	30			
(Food)	ex 2008 19 95;	20			
	ex 2008 19 99	30			
Palm oil (Food)	1511 10 90; 1511 90 11; ex 1511 90 19; 1511 90 99	90	Ghana (GH)	Sudan dyes ⁽⁸⁾	50
— Groundnuts (peanuts), in shell	— 1202 41 00		Gambia (GM)	Aflatoxins	50
— Groundnuts (peanuts), shelled	— 1202 42 00				
— Peanut butter	— 2008 11 10				
— Groundnuts (peanuts), otherwise prepared or preserved	— 2008 11 91;				
(Feed and food)	2008 11 96; 2008 11 98				
Okra (Food – fresh, chilled or frozen)	ex 0709 99 90; ex 0710 80 95	20 30	India (IN)	Pesticide residues ⁽³⁾ ⁽⁹⁾	10
Peppers (other than sweet) (<i>Capsicum</i> spp.) (Food — fresh, chilled or frozen)	ex 0709 60 99; ex 0710 80 59	20 20	India (IN)	Pesticide residues ⁽³⁾ ⁽¹⁰⁾	20
Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) (Food – fresh or chilled)	0708 20		Kenya (KE)	Pesticide residues ⁽³⁾	5
Chinese celery (<i>Apium graveolens</i>) (Food — fresh or chilled herb)	ex 0709 40 00	20	Cambodia (KH)	Pesticide residues ⁽³⁾ ⁽¹¹⁾	50
Yardlong beans (<i>Vigna unguiculata</i> spp. <i>sesquipedalis</i> , <i>vigna unguiculata</i> spp. <i>unguiculata</i>) (Food — fresh, chilled or frozen vegetables)	ex 0708 20 00; ex 0710 22 00	10 10	Cambodia (KH)	Pesticide residues ⁽³⁾ ⁽¹²⁾	50
Turnips (<i>Brassica rapa</i> spp. <i>Rapa</i>) (Food — prepared or preserved by vinegar or acetic acid)	ex 2001 90 97	11; 19	Lebanon (LB)	Rhodamine B	50
Peppers (sweet or other than sweet) (<i>Capsicum</i> spp.) (Food — dried, roasted, crushed or ground)	ex 2008 99 99; 0904 21 10; ex 0904 21 90; ex 0904 22 00	79 20 11; 19	Sri Lanka (LK)	Aflatoxins	50

Feed and food (intended use)	CN code ⁽¹⁾	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
— Groundnuts (peanuts), in shell — Groundnuts (peanuts), shelled — Peanut butter — Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 1202 41 00 — 1202 42 00 — 2008 11 10 — 2008 11 91; 2008 11 96; 2008 11 98		Madagascar (MG)	Aflatoxins	50
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Nigeria (NG)	Salmonella ⁽²⁾	50
Peppers (other than sweet) (<i>Capsicum</i> spp.) (Food — fresh, chilled or frozen)	ex 0709 60 99; ex 0710 80 59	20 20	Pakistan (PK)	Pesticide residues ⁽³⁾	20
Raspberries (Food — frozen)	0811 20 31; ex 0811 20 11; ex 0811 20 19	10 10	Serbia (RS)	Norovirus	10
— Groundnuts (peanuts), in shell — Groundnuts (peanuts), shelled — Peanut butter — Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 1202 41 00 — 1202 42 00 — 2008 11 10 — 2008 11 91; 2008 11 96; 2008 11 98		Sudan (SD)	Aflatoxins	50
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Sudan (SD)	Salmonella ⁽²⁾	50
Watermelon (<i>Egusi, Citrullus</i> spp.) seeds and derived products (Food)	ex 1207 70 00; ex 1106 30 90; ex 2008 99 99	10 30 50	Sierra Leone (SL)	Aflatoxins	50
— Groundnuts (peanuts), in shell — Groundnuts (peanuts), shelled — Peanut butter — Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 1202 41 00 — 1202 42 00 — 2008 11 10 — 2008 11 91; 2008 11 96; 2008 11 98		Senegal (SN)	Aflatoxins	50
Turnips (<i>Brassica rapa</i> spp. <i>Rapa</i>) (Food — prepared or preserved by vinegar or acetic acid)	ex 2001 90 97	11; 19	Syria (SY)	Rhodamine B	50
Peppers (other than sweet) (<i>Capsicum</i> spp.) (Food — fresh, chilled or frozen)	ex 0709 60 99; ex 0710 80 59	20 20	Thailand (TH)	Pesticide residues ⁽³⁾ ⁽¹³⁾	10

Feed and food (intended use)	CN code ⁽¹⁾	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
— Dried apricots	— 0813 10 00		Turkey (TR)	Sulphites ⁽¹⁵⁾	20
— Apricots, otherwise prepared or preserved ⁽¹⁴⁾	— 2008 50 61				
(Food)					
Dried grapes (including dried grapes cut or crushed into a paste, without any further treatment)	0806 20		Turkey (TR)	Ochratoxin A	5
(Food)					
Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>)	0805 50 10		Turkey (TR)	Pesticide residues ⁽³⁾	10
(Food – fresh, chilled or dried)					
Pomegranates	ex 0810 90 75	30	Turkey (TR)	Pesticide residues ⁽³⁾ ⁽¹⁶⁾	10
(Food — fresh or chilled)					
Sweet Peppers (<i>Capsicum annuum</i>)	0709 60 10; 0710 80 51		Turkey (TR)	Pesticide residues ⁽³⁾ ⁽¹⁷⁾	10
(Food — fresh, chilled or frozen)					
Peppers (other than sweet) (<i>Capsicum</i> spp.)	ex 0709 60 99 ex 0710 80 59	20 20	Uganda (UG)	Pesticide residues ⁽³⁾	20
(Food — fresh, chilled or frozen)					
Sesamum seeds	1207 40 90		Uganda (UG)	Salmonella ⁽²⁾	50
(Food — fresh or chilled)					
— Pistachios, in shell	— 0802 51 00		United States (US)	Aflatoxins	10
— Pistachios, shelled	— 0802 52 00				
— Pistachios, roasted	— ex 2008 19 13; ex 2008 19 93	20 20			
(Food)					
— Dried apricots	— 0813 10 00		Uzbekistan (UZ)	Sulphites ⁽¹⁵⁾	50
— Apricots, otherwise prepared or preserved ⁽¹⁴⁾	— 2008 50 61				
(Food)					
— Coriander leaves	— ex 0709 99 90	72	Vietnam (VN)	Pesticide residues ⁽³⁾ ⁽¹⁸⁾	50
— Basil (holy, sweet)	— ex 1211 90 86	20			
— Mint	— ex 1211 90 86	30			
— Parsley	— ex 0709 99 90	40			
(Food — fresh or chilled herbs)					
Okra	ex 0709 99 90 ex 0710 80 95	20 30	Vietnam (VN)	Pesticide residues ⁽³⁾ ⁽¹⁸⁾	50
(Food – fresh, chilled or frozen)					

Feed and food (intended use)	CN code ⁽¹⁾	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
Peppers (other than sweet) (<i>Capsicum</i> spp.) (Food — fresh, chilled or frozen)	ex 0709 60 99; ex 0710 80 59	20 20	Vietnam (VN)	Pesticide residues ⁽³⁾ ⁽¹⁸⁾	50

⁽¹⁾ Where only certain products under any CN code are required to be examined and no specific subdivision under that code exists, the CN code is marked 'ex'.

⁽²⁾ Reference method EN/ISO 6579-1 or a method validated against it in accordance with the most recent version of EN/ISO 16140 or other internationally accepted similar protocols.

⁽³⁾ Residues of at least those pesticides listed in the control programme adopted in accordance with Article 29(2) of Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1) that can be analysed with multi-residue methods based on GC-MS and LC-MS (pesticides to be monitored in/on products of plant origin only).

⁽⁴⁾ Residues of Amitraz.

⁽⁵⁾ Residues of Tolfenpyrad.

⁽⁶⁾ Residues of Acephate, Aldicarb (sum of aldicarb, its sulfoxide and its sulfone, expressed as aldicarb), Amitraz (amitraz including the metabolites containing the 2,4-dimethylaniline moiety expressed as amitraz), Diafenthiuron, Dicofol (sum of p, p' and o,p' isomers), Dithiocarbamates (dithiocarbamates expressed as CS₂, including maneb, mancozeb, metiram, propineb, thiram and ziram) and Methiocarb (sum of methiocarb and methiocarb sulfoxide and sulfone, expressed as methiocarb).

⁽⁷⁾ Residues of Dicofol (sum of p, p' and o,p' isomers), Dinotefuran, Folpet, Prochloraz (sum of prochloraz and its metabolites containing the 2,4,6-Trichlorophenol moiety expressed as prochloraz), Thiophanate-methyl and Triforine.

⁽⁸⁾ For the purposes of this Annex, 'Sudan dyes' refers to the following chemical substances: (i) Sudan I (CAS Number 842-07-9); (ii) Sudan II (CAS Number 3118-97-6); (iii) Sudan III (CAS Number 85-86-9); (iv) Scarlet Red; or Sudan IV (CAS Number 85-83-6).

⁽⁹⁾ Residues of Diafenthiuron.

⁽¹⁰⁾ Residues of Carbofuran.

⁽¹¹⁾ Residues of Phenthoate.

⁽¹²⁾ Residues of Chlorbufam.

⁽¹³⁾ Residues of Formetanate (sum of formetanate and its salts expressed as formetanate (hydrochloride)), Prothiofos and Triforine.

⁽¹⁴⁾ Identity and physical checks may be carried out by the competent authority of the place of destination as indicated in the CED, in accordance with Article 9(2) of this Regulation.

⁽¹⁵⁾ Reference methods: EN 1988-1:1998, EN 1988-2:1998 or ISO 5522:1981.

⁽¹⁶⁾ Residues of Prochloraz.

⁽¹⁷⁾ Residues of Diafenthiuron, Formetanate (sum of formetanate and its salts expressed as formetanate (hydrochloride)) and Thiophanate-methyl.

⁽¹⁸⁾ Residues of Dithiocarbamates (dithiocarbamates expressed as CS₂, including maneb, mancozeb, metiram, propineb, thiram and ziram), Phenthoate and Quinalphos.'