

## COMMISSION DECISION

of 20 December 2007

## approving the pre-export checks carried out by the United States of America on peanuts and derived products thereof as regards the presence of aflatoxins

(notified under document number C(2007) 6451)

(Text with EEA relevance)

(2008/47/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

with a view of verifying that the exported products comply with the Community requirements may be approved.

Having regard to the Treaty establishing the European Community,

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 <sup>(1)</sup>, and in particular Article 23 thereof,

- (4) Such an approval may only be granted to a third country after a Community audit has shown that feed or food exported to the Community meets Community requirements or equivalent requirements and that the controls carried out in the third country prior to dispatch are considered sufficiently effective and efficient as to replace or reduce the documentary, identity and physical checks laid down in Community law.

Whereas:

- (1) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs <sup>(2)</sup> lays down permitted maximum levels of aflatoxins in foodstuffs. Only foodstuffs complying with the maximum level may be placed on the market.

- (5) The United States of America have submitted to the Commission in April 2005 an application for obtaining an approval of the pre-export checks performed by the competent authorities of the United States of America on the aflatoxin contamination in peanuts and derived products intended for export to the Community.

- (2) Regulation (EC) No 882/2004 provides that Member States shall ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency as to achieve the objectives of the Regulation, that is, *inter alia*, preventing, eliminating or reducing to acceptable levels risks to humans and animals.

- (6) The Commission Food and Veterinary Office (FVO) carried out a mission in the United States of America from 18 to 22 September 2006 in order to assess the control systems in place to prevent aflatoxin contamination levels in peanuts and derived products and to verify that pre-export checks for these products exported to the Community ensure that these products comply with Community requirements. It was concluded that the United States of America have a well defined control system for aflatoxins levels in peanuts and well performing approved laboratories. The competent authorities of the United States of America have committed and taken action to address the minor deficiencies observed.

- (3) Article 23 of Regulation (EC) No 882/2004 provides that pre-export checks carried out by a third country on feed and food immediately prior to export to the Community

- (7) It is therefore appropriate to grant approval of pre-export checks carried out by the United States of America on peanuts and derived products ensuring compliance with the Community maximum levels of aflatoxins.

<sup>(1)</sup> OJ L 165, 30.4.2004. Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(2)</sup> OJ L 364, 20.12.2006, p. 5. Regulation as amended by Regulation (EC) No 1126/2007 (OJ L 255, 29.9.2007, p. 14).

- (8) Member States are required by Article 16(2) of Regulation (EC) No 882/2004 to adjust the frequency of physical checks on imports to the risk associated with different categories of food and taking into account, among other things, the guarantees provided by the competent authorities of the third country of origin of the food in question. Systematic pre-export checks carried out under the authority of the USDA in conformity with the Community approval in accordance with Article 23 of Regulation (EC) No 882/2004 provide to the Member States' authorities strong guarantees. As a consequence, Member States should reduce the frequency of physical checks performed on those commodities to a level appropriate to those guarantees.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Approval of pre-export checks

The pre-export checks as regards aflatoxins carried out by the United States Department of Agriculture (USDA) of the United States of America immediately prior to export to the Community, are approved for the following foodstuffs and derived products thereof (hereafter referred to as foodstuffs):

- (a) peanuts falling within CN code 1202 10 90 or 1202 20 00;
- (b) peanuts falling within CN code 2008 11 94 (in immediate packings of a net content exceeding 1 kg) or 2008 11 98 (in immediate packings of a net content not exceeding 1 kg);
- (c) roasted peanuts falling within CN codes 2008 11 92 (in immediate packings of a net content exceeding 1 kg) or 2008 11 96 (in immediate packings of a net content not exceeding 1 kg).

The approval of pre-export checks applies only to peanuts listed in the first paragraph, which were produced on the territory of the United States of America.

#### Article 2

##### Conditions for approval of pre-export checks

1. The consignment shall be accompanied by:
  - (a) the results of sampling and analysis performed by a USDA approved laboratory carried out in accordance with or equivalent to the provisions of Commission Regulation (EC) No 401/2006 of 23 February 2006 laying down the methods of sampling and analysis for the official control of mycotoxins in foodstuffs <sup>(1)</sup>;
  - (b) a certificate <sup>(2)</sup> set out in the Annex, completed, signed and verified by an authorised representative of the USDA for foodstuffs from the United States of America.
2. Each consignment of foodstuffs shall be identified with a code which corresponds to the code on the report of the results of the sampling and analysis and on the certificate referred to in point (b) of the first paragraph. Each individual bag, or other packaging form, of the consignment shall be identified with that code.
3. The certificate provided for in point (b) of the first paragraph shall only be valid for imports of foodstuffs into the Community no later than four months from the date of issue of the certificate.

#### Article 3

##### Splitting of a consignment

If a consignment is split, copies of the certificate provided for in Article 2(1)(b) and certified by the competent authority of the Member State on whose territory the splitting has taken place, shall accompany each part of the split consignment up to and including the wholesale stage. Certified copies of the certificate can also be provided by the competent authority at the moment of the release for free circulation in case the food business operator indicates to have the intention to split the consignment.

#### Article 4

##### Official controls

The documentary check, as referred to in Article 16(1) of Regulation (EC) No 882/2004, shall be performed at the point of first arrival in the Community and evidence of this check will accompany the consignment.

<sup>(1)</sup> OJ L 70, 9.3.2006, p. 12.

<sup>(2)</sup> Certificate based on the standard model laid down in Annex I to Commission Decision 2007/240/EC of 16 April 2007 laying down new veterinary certificates for importing live animals, semen, embryos, ova and products of animal origin into the Community (OJ L 104, 21.4.2007, p. 37). The explanatory notes on the certificate mentioned in Annex I of the abovementioned Decision are also relevant for the certificate laid down in the Annex to this Decision. In accordance with the provisions of Regulation (EC) No 882/2004, the certification may be provided in future electronically, after the practical modalities have been agreed upon.

In accordance with the provisions of Article 16 paragraph 2(d) and Article 23 paragraph 2 of Regulation (EC) No 882/2004, the frequency of the physical checks on the consignments of foodstuffs referred to in Article 1 of this Regulation to be carried out by the Member States shall be significantly reduced on the condition that the provisions of Article 2 of this Regulation are complied with.

*Article 5*

This Decision shall apply from 1 December 2007.

*Article 6*

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2007.

*For the Commission*  
Markos KYPRIANOU  
*Member of the Commission*

---

## ANNEX

COUNTRY:

Certificate to EU

Part I: Details of dispatched consignment	I.1. Consignor Name  Address  Tel. No		I.2. Certificate reference number	I.2.a	
			I.3. Central Competent Authority		
			I.4. Local Competent Authority		
	I.5. Consignee Name  Address Postal code Tel. No		I.6. Person responsible for the consignment in EU Name  Address Postal code Tel. No		
	I.7. Country of origin	ISO code	I.8.		I.9. Country of destination
				ISO code	I.10.
	I.11. Place of origin Name  Address		I.12.		
	Approval number				
	I.13. Place of loading		I.14. Date of departure		
	I.15. Means of transport Aeroplane <input type="checkbox"/> Ship <input type="checkbox"/> Railway wagon <input type="checkbox"/> Road vehicle <input type="checkbox"/> Other <input type="checkbox"/>		I.16. Point of import in EU		
Identification: Documentary references:		I.17.			
I.18. Description of commodity			I.19. Commodity code (HS code)		
			I.20. Quantity		
I.21. Temperature of product Ambient <input type="checkbox"/> Chilled <input type="checkbox"/> Frozen <input type="checkbox"/>			I.22. Number of packages		
I.23. Identification of container/seal number			I.24. Type of packaging		
I.25. Commodities certified for: Human consumption <input type="checkbox"/> Animal feedingstuff <input type="checkbox"/> Further process <input type="checkbox"/>					
I.26.			I.27. For import into EU <input type="checkbox"/>		
I.28. Identification of the commodities Batch number Treatment type					

EUROPEAN COMMUNITY

PEANUTS — PRE-EXPORT CHECK

II. Health information	II.a. Certificate reference number	II.b.						
<p>According to the provisions of European Commission Decision 2008/47/EC approving the pre-export checks carried out by the United States of America on peanuts and derived products thereof as regards the presence of aflatoxins, I undersigned, ....., authorised representative of the competent authority referred to in Article 1 certifies that the commodities described in the Part I of the certificate have been produced, sorted, handled, processed, packaged and transported in line with good hygiene practices and have been subject to a pre-export check, as approved by Commission Decision 2008/47/EC and ensures that the commodities covered by this certificate will be transported to the European Community in a container, which is in line with good hygiene practices.</p> <p>From this consignment samples for aflatoxin analysis were taken on ..... (date), subjected to laboratory analysis on ..... (date) in the ..... (name of laboratory), and the details of sampling, methods of analysis used and all results are attached.</p>								
<p><b>Notes</b></p> <p>This certificate is valid for 4 months after issuance.</p> <p><b>Part I:</b></p> <ul style="list-style-type: none"> <li>— Box reference I.11: <i>Approval number</i>: only if applicable.</li> <li>— Box reference I.19: Use the appropriate HS code of WCO: 12.02.10, 12.02.20 or 20.08.11.</li> <li>— Box reference I.20: Indicate total gross weight and total net weight.</li> <li>— Box reference I.25: <i>Further process</i> means 'subject to sorting or other physical treatment before human consumption'.</li> <li>— Box reference I.28: <i>Treatment type</i>: Select amongst roasted, otherwise processed, shelled or in shell.</li> </ul>								
<p>Official inspector</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Name (in capital letters):</td> <td style="width: 50%;">Qualification and title:</td> </tr> <tr> <td>Date:</td> <td>Signature:</td> </tr> <tr> <td>Stamp:</td> <td></td> </tr> </table>			Name (in capital letters):	Qualification and title:	Date:	Signature:	Stamp:	
Name (in capital letters):	Qualification and title:							
Date:	Signature:							
Stamp:								

Part II: Certification