

COMMISSION IMPLEMENTING REGULATION (EU) 2019/890**of 27 May 2019****imposing special conditions governing the import of groundnuts from Gambia and Sudan and amending Regulation (EC) No 669/2009 and Implementing Regulation (EU) No 884/2014****(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 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 ⁽¹⁾, and in particular Article 53(1)(b)(ii) thereof,

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 ⁽²⁾, and in particular Article 15(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 669/2009 ⁽³⁾ provides for an increased level of official controls to be carried out on imports of certain feed and food of non-animal origin listed in Annex I to that Regulation. Groundnuts from Gambia are already subject to an increased level of official controls as regards the presence of aflatoxins since October 2015. In addition, groundnuts from Sudan have been subject to an increased level of official controls regarding the presence of aflatoxins since April 2014.
- (2) The official controls carried out on those commodities by the Member States pursuant to Regulation (EC) No 669/2009 show either a persistent, high rate of non-compliance with prescribed maximum levels of aflatoxins or have resulted in a significant reduction in the number of consignments presented for import into the Union following initial high levels of non-compliance. Those results provide evidence that the import of those foods and feeds constitutes a risk for animal and human health. No improvement of the situation has been observed following several years of increased frequency of controls at Union borders.
- (3) Commission Implementing Regulation (EU) No 884/2014 ⁽⁴⁾ imposes special conditions on the import of certain feed and food from certain third countries due to a risk of contamination by aflatoxins. Currently it does not apply to the import of groundnuts from Gambia and Sudan.
- (4) In order to protect human and animal health in the Union, it is necessary to provide, in addition to an increased level of official controls, for special conditions in relation to that food and feed from Gambia and Sudan. All consignments of groundnuts from Gambia and Sudan should be accompanied by a health certificate stating that the products have been sampled and analysed for the presence of aflatoxins and have been found to be compliant with Union legislation. The results of the sampling and analysis should be attached to the accompanying health certificate.
- (5) Having regard to the high rate of non-compliance with prescribed maximum levels of aflatoxins, found in dried figs from Turkey, it is appropriate to increase the frequency of identity and physical checks of aflatoxin in dried figs from Turkey from 10 to 20 %. Furthermore, frequent findings of high levels of ochratoxin A in dried figs from Turkey have also been reported.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 165, 30.4.2004, p. 1.

⁽³⁾ 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).

⁽⁴⁾ Commission Implementing Regulation (EU) No 884/2014 of 13 August 2014 imposing special conditions governing the import of certain feed and food from certain third countries due to contamination risk by aflatoxins and repealing Regulation (EC) No 1152/2009 (OJ L 242, 14.8.2014, p. 4).

- (6) An existing exemption excludes consignments destined for a private person for personal consumption and use from the scope of Implementing Regulation (EU) No 884/2014. It is also appropriate to exclude consignments of feed and food sent as trade samples or as display items for exhibitions that are not intended to be placed on the market or are sent to be used for scientific purposes. This relates to very small consignments of certain feed and food but it is not appropriate to fix a specific weight, given the variety of products covered. However to avoid misuse, in addition to the abovementioned conditions for exemption, a maximum weight is established. Having regard to the low risk that such consignments pose to public health, it would be disproportionate to impose a requirement that these consignments be accompanied by a health certificate or by the results of the sampling and analytical tests.
- (7) The Brazilian, Ethiopian, Argentinian and Azerbaijani authorities have informed the Commission of a change of the competent authority whose authorised representative is entitled to sign the health certificate. Therefore, these changes should be introduced in Implementing Regulation (EU) No 884/2014 accordingly.
- (8) Furthermore, it is appropriate to update the relevant CN codes for *Capsicum annuum* due to recent changes of the CN code, and to add CN codes to hazelnut paste and also to figs prepared or preserved including mixtures because products corresponding to the description are traded under these codes.
- (9) Regulation (EC) No 669/2009 and Implementing Regulation (EU) No 884/2014 should therefore be amended accordingly.
- (10) 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

Annex I to Regulation (EC) No 669/2009 is amended in accordance with Annex I to this Regulation.

Article 2

Implementing Regulation (EU) No 884/2014 is amended as follows:

(1) the following points (o) and (p) are added to Article 1(1):

- '(o) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Gambia;
- (p) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Sudan;'

(2) Article 1(3) is replaced by the following:

'3. This Regulation shall not apply to consignments of feed and food referred to in paragraphs 1 and 2 which are destined for a private person for personal consumption and use only. In case of doubt, the burden of proof shall be borne by the recipient of the consignment. This Regulation shall also not apply to consignments of feed and food sent as trade samples, laboratory samples or as display items for exhibitions, that are not intended to be placed on the market or are sent to be used for scientific purposes.'

The gross weight of the consignments referred to in the first subparagraph shall in any case not exceed 30 kg.;

(3) Article 5(2) is amended as follows:

(a) point (a) is replaced by the following:

- '(a) the Ministry of Agriculture, Livestock and Food Supply (MAPA) (Ministério da Agricultura, Pecuária e Abastecimento (MAPA)) and Sistema Nacional de Vigilância Sanitária (SNVS) for feed and food from Brazil.'

(b) points (j), (k) and (l) are replaced by the following:

‘(j) the Ethiopian Food, Medicine and Health Care Administration and Control Authority (FMHACA) for food from Ethiopia;

(k) the National Agri-Food Health and Quality Service (Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA)) and the National Institute of Nutrition (Instituto Nacional de Alimentos (INAL)) for feed and food from Argentina;

(l) the Food Safety Agency of the Republic of Azerbaijan for food from Azerbaijan.’;

(c) the following points (m) and (n) are added:

‘(m) the Food Safety and Quality Authority for feed and food from Gambia;

(n) the Ministry of Agriculture and Forestry for feed and food from Sudan’;

(4) Annex I to Implementing Regulation (EU) No 884/2014 is amended in accordance with Annex II to this Regulation.

Article 3

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

Consignments of feed and food referred to in Article 2(1) having left the country of origin prior to the date of entry into force may be imported into the Union without being accompanied by a health certificate and the results of sampling and analysis.

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

Done at Brussels, 27 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

In Annex I to Regulation (EC) No 669/2009 the following entries are deleted:

Feed and food (intended use)	CN code (1)	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%) at import
— 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		Gambia (GM)	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		Sudan (SD)	Aflatoxins	50

ANNEX II

Annex I to Implementing Regulation (EU) No 884/2014 is amended as follows:

(1) The following entries are added:

Feed and food (intended use)	CN code (1)	TARIC sub-division	Country of origin or country of consignment	Frequency of physical and identity checks (%)
— Groundnuts (peanuts), in shell	— 1202 41 00		Gambia (GM)	50
— Groundnuts (peanuts), shelled	— 1202 42 00			
— Peanut butter	— 2008 11 10			
— Groundnuts (peanuts), otherwise prepared or preserved	— 2008 11 91; 2008 11 96; 2008 11 98			
(Feed and food)				
— Groundnuts (peanuts), in shell	— 1202 41 00		Sudan (SD)	50'
— Groundnuts (peanuts), shelled	— 1202 42 00			
— Peanut butter	— 2008 11 10			
— Groundnuts (peanuts), otherwise prepared or preserved	— 2008 11 91; 2008 11 96; 2008 11 98			
(Feed and food)				

(2) The fifth entry as regards dried figs; mixtures of nuts or dried fruits containing figs; fig paste; and figs, prepared or preserved, including mixtures, from Turkey, is replaced by the following:

— Dried figs	— 0804 20 90		Turkey (TR)	20'
— Mixtures of nuts or dried fruits containing figs	— ex 0813 50			
— Dried fig paste	— ex 2007 10 or ex 2007 99			
— Dried figs, prepared or preserved, including mixtures	— ex 2008 99 or ex 2008 97			
— Flour, meal or powder of dried figs	— ex 1106 30 90			
(Food)				

(3) The sixth entry as regards hazelnuts; mixtures of nuts or dried fruits containing hazelnuts; hazelnut paste; hazelnuts, otherwise prepared or preserved, including mixtures; flour, meal and powder of hazelnuts; cut, sliced or broken hazelnuts; and hazelnut oil, from Turkey, is replaced by the following:

— Hazelnuts (<i>Corylus</i> spp.) in shell	— 0802 21 00		Turkey (TR)	5'
— Hazelnuts(<i>Corylus</i> spp.) shelled	— 0802 22 00			
— Mixtures of nuts or dried fruits containing hazelnuts	— ex 0813 50			
— Hazelnut paste	— ex 2007 10 or ex 2007 99 or ex 2008 97 or ex 2008 99			

— Hazelnuts, otherwise prepared or preserved, including mixtures	— ex 2008 19			
— Flour, meal and powder of hazelnuts	— ex 1106 30 90			
— Cut, sliced or broken hazelnuts	— ex 0802 22 00			
— Cut, sliced or broken hazelnuts, otherwise prepared or preserved	— ex 2008 19			
— Hazelnut oil	— ex 1515 90 99			
(Food)				

(4) The twelfth entry as regards *Capsicum annuum*, whole, crushed or ground; dried fruit of the genus *Capsicum*, whole, other than sweet peppers (*Capsicum annuum*); and nutmeg (*Myristica fragrans*), from India, is replaced by the following:

‘— <i>Capsicum annuum</i> , whole	— 0904 21 10		India (IN)	20’
— <i>Capsicum annuum</i> , crushed or ground	— ex 0904 22 00	11; 19		
— Dried fruit of the genus <i>Capsicum</i> , whole, other than sweet peppers (<i>Capsicum annuum</i>)	— ex 0904 21 90	20		
— Nutmeg (<i>Myristica fragrans</i>)	— 0908 11 00; 0908 12 00			
(Food - dried spices)				