



2023/2430

3.11.2023

COMMISSION IMPLEMENTING REGULATION (EU) 2023/2430

of 17 August 2023

laying down rules concerning checks on conformity to marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 90a(6), first subparagraph, point (c), and Article 91, first paragraph, points (b), (f) and (g), thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 establishes a common organisation of agricultural markets, which includes, among others, the fruit and vegetables sector, processed fruit and vegetable products sector and bananas sector. It also empowers the Commission to adopt implementing acts in respect to checks of conformity to marketing standards and related notifications.
- (2) Commission Implementing Regulation (EU) No 543/2011 ⁽²⁾ provides for marketing standards and checks on conformity to marketing standards for all fresh fruit and vegetables and requirements for notifications. Commission Implementing Regulation (EU) No 1333/2011 ⁽³⁾ lays down marketing standards, rules on the verification of compliance with marketing standards and requirements for notifications in the bananas sector.
- (3) In the interest of clarity, it is appropriate to incorporate all the rules concerning checks on conformity to marketing standards and requirements for notifications of non-conformity for the products and sectors covered by Commission Delegated Regulation (EU) 2023/2429 ⁽⁴⁾ in a single new Regulation, taking into account the experience acquired in the application of the existing specific Regulations. In addition, Implementing Regulations (EU) No 543/2011 and (EU) No 1333/2011 are repealed by Delegated Regulation (EU) 2023/2429.
- (4) For the purposes of the selective checks based on a risk analysis as provided for in Article 90a(3) of Regulation (EU) No 1308/2013, it is necessary to lay down detailed rules on such checks. In particular, the role of the risk analysis when selecting products for checks should be detailed.
- (5) Each Member State should designate the inspection bodies responsible for carrying out conformity checks at each stage of marketing. A single competent authority should be responsible for contacts with and coordination between all designated inspection bodies.

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector (OJ L 336, 20.12.2011, p. 23).

⁽⁴⁾ Commission Delegated Regulation (EU) 2023/2429 of 17 August 2023 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector, and repealing Commission Regulation (EC) No 1666/1999 and Commission Implementing Regulations (EU) No 543/2011 and (EU) No 1333/2011 (OJ L, 2023/2429, 3.11.2023, ELI link: http://data.europa.eu/eli/reg_del/2023/2429/oj).

- (6) Since knowledge of traders and their main characteristics is an indispensable tool in Member States' analysis, it is essential to set up a database on traders of fruit and vegetables and bananas in each Member State. In order to ensure that all actors in the marketing chain are covered and for the sake of legal certainty, a detailed definition of 'trader' should be laid down.
- (7) Conformity checks should be carried out by sampling and should concentrate on traders most likely to have goods which do not comply with the marketing standards. Taking into account the characteristics of their national markets, Member States should lay down rules prioritising checks on particular categories of traders. For the sake of transparency, those rules should be notified to the Commission.
- (8) Where conformity checks identify possible fraudulent or deceptive practices in respect of the marketing standards, competent authorities should take appropriate action in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council ⁽⁵⁾ and exchange fraud notifications in accordance with Commission Implementing Regulation (EU) 2019/1715 ⁽⁶⁾.
- (9) Member States should ensure that exports of fruits and vegetables to third countries conform to the marketing standards. Member States should certify conformity with the Geneva Understanding on standardisation of fresh fruit and vegetables and dry and dried fruit, concluded within the United Nations Economic Commission for Europe (UNECE), and with the Scheme for the application of international standards for fruit and vegetables of the Organisation for Economic Cooperation and Development (OECD).
- (10) Imports of fruit and vegetables from third countries should conform to the marketing standards or to standards equivalent to them. Conformity checks should therefore be carried out before those goods enter the customs territory of the Union, except in the case of small lots which the inspection bodies consider to be low risk. It should be provided that in certain third countries which provide satisfactory guarantees of conformity, pre-export checks may be carried out by the inspection bodies of those third countries. Where that option is applied, Member States should regularly verify the effectiveness and quality of the pre-export checks carried out by third country inspection bodies.
- (11) Fruit and vegetables checked for conformity to the marketing standards should be subject to the same type of check at all stages of marketing. To this end, the inspection methods of the OECD also recommended by the UNECE should be applied. Specific arrangements should, however, be laid down for checks at the retail sale stage.
- (12) In order to ensure the coherence between the marketing standards and their checks, this Regulation should enter into force on, and apply from, the same day as Delegated Regulation (EU) 2023/2429.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

⁽⁵⁾ 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).

⁽⁶⁾ Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, p. 37).

HAS ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject matter and scope

This Regulation lays down rules on:

- (a) checks on conformity to marketing standards for the sectors and products referred to in Article 1 of Delegated Regulation (EU) 2023/2429 at all marketing stages; and
- (b) the requirements for notifications of non-conformity following conformity checks.

CHAPTER II

CHECKS ON CONFORMITY TO MARKETING STANDARDS

SECTION 1

General provisions

Article 2

Coordinating authorities and inspection bodies

1. Each Member State shall designate:
 - (a) a single competent authority responsible for coordination and contacts in the areas covered by this Regulation, hereinafter called ‘the coordinating authority’; and
 - (b) an inspection body or bodies responsible for the application of this Regulation, hereinafter called ‘the inspection bodies’.
2. The coordinating authorities and inspection bodies referred to in paragraph 1 may be public or private. However, the Member States shall be responsible for them in either case.

The Member States shall notify the Commission of:

- (a) the name and postal and email addresses of the coordinating authority they have designated pursuant to paragraph 1, point (a);
 - (b) the name and postal and email addresses of the inspection bodies they have designated pursuant to paragraph 1, point (b);
 - (c) the exact description of the respective spheres of activity of the inspection bodies they have designated.
3. The coordinating authority may be the inspection body or one of the inspection bodies or any other body designated pursuant to paragraph 1.
 4. The Commission shall make publicly available the list of coordinating authorities designated by the Member States on the Europa website.

*Article 3***Trader database**

1. Member States shall set up a database on traders in the sectors and products referred to in Article 1 of Delegated Regulation (EU) 2023/2429 (hereinafter 'trader database'), under the conditions laid down in this Article.

For this purpose, Member States may use any other database or databases already established for other purposes.

2. For the purposes of this Regulation, 'trader' means any natural or legal person who:

- (a) holds products referred to in Article 1 of Delegated Regulation (EU) 2023/2429, with a view to:
 - (i) displaying or offering them for sale;
 - (ii) selling them;
 - (iii) marketing them in any other manner; or
- (b) actually carries out any of the activities referred to in point (a) as regards the sectors and products subject to marketing standards.

The activities referred to in the first subparagraph, point (a), shall cover:

- (a) distance selling whether by internet or otherwise;
- (b) such activities carried out by the natural or legal person for itself or on behalf of a third party;
- (c) activities carried out in the Union and/or by export to third countries and/or import from third countries.

3. Member States shall determine the conditions under which the following traders are to be included or not in the trader database:

- (a) traders whose activities cover products listed in Article 3 of Delegated Regulation (EU) 2023/2429 or products that are exempt from the obligation to comply with the marketing standards pursuant to Article 5 of the same regulation;
- (b) natural or legal persons whose activities are limited to the transport of goods;
- (c) traders whose activities are limited to the sale at the retail stage.

4. Where the trader database is composed of several distinct elements, the coordinating authority shall ensure that the database, its elements and their updating are uniform.

5. The trader database shall contain for each trader:

- (a) the registration number, name and address and the indication of the relevant sectors or products in which it operates among the ones referred to in paragraph 1;
- (b) information needed for its classification in one of the risk categories referred to in Article 5(3), in particular, position in the marketing chain and information concerning the importance of the firm;
- (c) information concerning findings made during previous checks of each trader;
- (d) any other information considered necessary for checks such as information concerning the existence of a quality assurance system or self-check system related to the conformity to the marketing standards;
- (e) the indication whether or not the trader has been approved in accordance with Article 4.

Member States shall update the trader database where necessary, taking into account in particular the information collected during conformity checks.

6. Without prejudice of paragraph 3, all traders shall be registered and shall provide the information that Member States consider necessary to set up and update the trader database. Member States shall determine the conditions under which traders not established in their territory but trading on it shall be included in their database.

Article 4

Approved traders

1. Member States may authorise traders classified in the lowest risk category in accordance with the conformity checks referred to in Article 5, on their request and subject to the provision of special guarantees on conformity to marketing standards, to:

- (a) sign the certificate of conformity as referred to in Article 7;
- (b) use, in the labelling of each package at the stage of dispatch, the specimen set out in Annex I for fresh fruit and vegetables and bananas produced in the Union; or
- (c) use the certificate of exemption set out in Annex II for bananas produced in third countries.

Member States may restrict the authorisations referred to in the first subparagraph to one or two of the sectors and products referred to in Article 1 of Delegated Regulation (EU) 2023/2429.

The certificate of exemption referred to in the first subparagraph, point (c), shall apply to the whole of the Union market for bananas unloaded in the Member State which granted the exemption.

2. The authorisation shall be granted for a period of at least one year.

3. Traders benefiting from the possibility referred to in paragraph 1 shall:

- (a) have inspection staff who have received training or have relevant experience;
- (b) have suitable equipment for preparing, packing and checking produce;
- (c) commit themselves to carry out a conformity check on the goods they dispatch and have a register recording all checks carried out;
- (d) allow checks by coordinating authorities.

4. Where an approved trader no longer complies with the requirements for its authorisation, the Member State shall withdraw the authorisation.

5. Member States shall establish a list of approved traders indicating the registration number referred to in Article 3(5), first subparagraph, point (a), as well as the products and the period for which the authorisation has been granted. Member States shall take appropriate steps to make such information publicly available.

SECTION 2

Conformity checks carried out by the Member States

Article 5

Conformity checks

1. Member States shall ensure that conformity checks are carried out selectively, based on a risk analysis, and with appropriate frequency, so as to ensure compliance with, and to identify possible fraudulent or deceptive practices in respect of the marketing standards laid down in Articles 75 and 76 of Regulation (EU) No 1308/2013 and Delegated Regulation (EU) 2023/2429.

The criteria to assess the risk may include:

- (a) the existence of a certificate of conformity referred to in Article 7 of this Regulation issued by a competent authority;
- (b) the existence of a certificate of conformity issued by a competent authority of a third country where the conformity checks have been approved pursuant to Article 8 of this Regulation;
- (c) the nature of the product, the period of production, the price of the product, the weather, the packing and handling operations, the storage conditions, the country of origin, the means of transport or the volume of the lot;
- (d) the size of the traders, their position in the marketing chain, the volume or value marketed by them, their product range, the delivery area or the type of business carried out such as storage, sorting, packing or sale;
- (e) findings made during previous checks including the number and type of defects found, the usual quality of products marketed, the level of technical equipment used;
- (f) the reliability of traders' quality assurance systems or self-checking systems related to the conformity to marketing standards;
- (g) the place where the check is carried out, in particular if it is the point of first entry into the Union, or the place where the products are being packed or loaded;
- (h) any other information that might indicate a risk of non-compliance.

2. The certificates of conformity referred to in paragraph 1, second subparagraph, point (b), shall be considered as a factor reducing the risk of non-conformity.

3. The risk analysis shall be based on the information contained in the trader database referred to in Article 3 and Member States shall classify traders in risk categories on the basis of such risk analysis.

Member States shall lay down in advance:

- (a) the criteria for assessing the risk of non-conformity of lots;
- (b) the minimum proportions of traders or lots and/or quantities which will be subject to a conformity check, on the basis of a risk analysis for each risk category.

For products subject to the general marketing standard, based on a risk analysis, Member States may choose not to carry out selective checks.

4. Where checks reveal significant irregularities, Member States shall increase the frequency of checks in relation to concerned traders, products, origins, or other parameters.

5. Traders shall provide inspection bodies with all the information and facilities those bodies consider necessary for organising and carrying out conformity checks.

Article 6

Acceptance of declarations by customs

1. Customs may only accept export declarations and/or declarations for the release into free circulation for the products subject to specific marketing standards if one of the following conditions is fulfilled:

- (a) the goods are accompanied by a certificate of conformity as referred to in Article 7 or, in the case of bananas, by the certificate of exemption set out in Annex II; or
- (b) the competent inspection body has informed the customs authority that it has issued a certificate of conformity for the lots concerned; or
- (c) the competent inspection body has informed the customs authority that it has not issued a certificate of conformity for the lots concerned because they did not need to be checked in the light of the risk analysis referred to in Article 5(1).

The acceptance of declarations referred to in the first subparagraph shall be without prejudice to any conformity checks the Member State may carry out pursuant to Article 5.

2. Member States may also apply paragraph 1 to products subject to the general marketing standard set out in Part A of Annex I to Delegated Regulation (EU) 2023/2429 and products referred to in Article 5(1), point (a)(i), of that Delegated Regulation if the Member State concerned considers it necessary in the light of the risk analysis referred to in Article 5(1) of this Regulation.

Article 7

Certificate of conformity and certificate of exemption

1. Certificates of conformity for fresh fruit and vegetables or bananas subject to marketing standards and certificates of exemption for bananas may be issued by a competent authority.

The certificate of conformity is issued to confirm that the products concerned conform to the relevant marketing standard. The certificate of conformity for use by competent authorities in the Union is set out in Annex III.

For fresh fruits and vegetables, instead of certificates of conformity issued by competent authorities in the Union, the third countries referred to in Article 8(2) may use their own certificates of conformity, provided that they contain at least equivalent information to the Union certificate. The Commission shall make publicly available specimens of such third country certificates on the Europa website.

2. The certificate of exemption may be issued by the competent authority to confirm that the approved trader in question has the capacities to assure the conformity of the imported bananas to the relevant marketing standard. The certificate of exemption is set out in Annex II.

3. The certificates may be issued by the competent authority either in paper format with its stamp or in verified electronic format. They shall be signed by the person or persons empowered to do so by the competent authority either with a handwritten or with an electronic signature. Traders approved pursuant to Article 4 may also sign the certificate of conformity either with a handwritten or with an electronic signature.

4. The certificates shall be issued in at least one of the official languages of the Union.

5. Each certificate shall bear a serial number, by which it can be identified. The competent authority shall retain a copy of each issued certificate.

SECTION 3

Conformity checks carried out by third countries

Article 8

Approval of conformity checks carried out by third countries prior to import into the Union

1. The request of a third country for the approval referred to in Article 9(1) of Delegated Regulation (EU) 2023/2429 shall specify the official authority in the third country under the responsibility of which checks on conformity to marketing standards set out in that Delegated Regulation are carried out. That authority shall be responsible for contacts with the Commission. The request for approval shall also provide the necessary information to assess the requirements referred to in Article 9(4) of that Delegated Regulation.

2. The third countries where the conformity checks have been approved under the conditions laid down in Article 9 of Delegated Regulation (EU) 2023/2429 and this Article, and the products concerned, are set out in Annex IV to this Regulation. For any new approval, the Commission shall update that Annex in accordance with Article 91, first paragraph, point (f), of Regulation (EU) No 1308/2013.

3. The Commission shall make publicly available details of the official authorities and inspection bodies concerned on the Europa website.

Article 9

Suspension of approval of the conformity checks

The Commission may suspend approval of the conformity checks carried out by third countries if it is found that, in a significant number of lots and/or quantities, the goods do not correspond to the information in the certificates of conformity issued by the third country inspection bodies. In case of suspension of approval, the Commission shall update Annex IV in accordance with Article 91, first paragraph, point (f), of Regulation (EU) No 1308/2013.

SECTION 4

Methods of inspection

Article 10

Methods of inspection and rules on findings of non-conformity

1. The conformity checks provided for in this Regulation, with the exception of those at the point of retail sale to the end consumer, shall be carried out in accordance with the methods of inspection laid down in Annex V, save as otherwise provided in this Regulation or in Delegated Regulation (EU) 2023/2429.

Member States shall lay down specific arrangements for checking conformity at the point of retail sale to the end consumer.

2. Where the inspection body finds that the goods conform with the marketing standards, the inspection body may issue a certificate of conformity as set out in Annex III in accordance with Article 7.

3. Where the inspection body finds that the goods do not conform with the marketing standards, the inspection body shall issue a finding of non-conformity for the attention of the trader or their representatives. Goods for which a finding of non-conformity has been issued may not be moved without the authorisation of the inspection body which issued that finding. That authorisation can be subject to conditions laid down by the inspection body.

Traders may decide to bring all or some of the goods into conformity. Goods brought into conformity may not be marketed before the inspection body has ensured by all appropriate means that the goods have actually been brought into conformity. The inspection body shall issue, where applicable, a certificate of conformity as set out in Annex III for the lot or part thereof only after the goods have been brought into conformity.

If an inspection body accepts a trader's request to bring the goods into conformity in a Member State other than that where the check leading to a finding of non-conformity has been carried out, the trader shall notify the inspection body of the destination Member State of the non-conforming lot. The Member State issuing the finding of non-conformity shall send a copy of that finding to the Member State of destination of the non-conforming lot as well as to other Member States concerned.

Where the goods can neither be brought into conformity nor are intended for industrial processing, use for animal feed or any other non-food use, the inspection body may, if necessary, request traders to take adequate measures in order to ensure that the products concerned are not marketed.

Traders shall supply inspection bodies with all information deemed necessary by Member States for the application of this paragraph.

4. Where conformity checks provided for in this Regulation identify possible fraudulent or deceptive practices in respect of the marketing standards, competent authorities shall take appropriate action in accordance with Regulation (EU) 2017/625 and exchange fraud notifications in accordance with Implementing Regulation (EU) 2019/1715.

SECTION 5

Notifications

Article 11

Notifications

1. A Member State where a consignment from another Member State is found not to conform with the marketing standards because of defects or deterioration which could have been detected at the time of packaging shall notify forthwith the Member States likely to be concerned, including those where the goods were packaged.
2. A Member State where a lot of goods from a third country has been rejected from release into free circulation because of non-compliance with the marketing standards shall notify forthwith the Member States likely to be concerned and the third country concerned if listed in Annex IV.
3. Member States shall notify the Commission and the other Member States of the summarised results of the inspections at all marketing stages in a given year by 30 June of the following year. As regards imports from third countries listed in Annex IV, this notification shall include the number of lots of goods that has been rejected during the previous year from the release into free circulation because of non-compliance with the marketing standard.
4. The notifications to the Commission referred to in paragraph 3 shall be made in accordance with Commission Delegated Regulation (EU) 2017/1183 ⁽⁷⁾.

CHAPTER III

FINAL PROVISIONS

Article 12

Entry into force and application

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

It shall apply from 1 January 2025.

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


Done at Brussels, 17 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁷⁾ Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and the Council with regard to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100).

ANNEX I

Specimen referred to in Article 4(1), first subparagraph, point (b)

		<p>European Union marketing standard for fresh fruit and vegetables and bananas</p> <p>No (of the approved trader)</p> <p>(Member State)</p>
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ANNEX II

Certificate of exemption from verification of compliance with marketing standards for bananas referred to in Article 4(1), first subparagraph, point (c), and Article 6(1), first subparagraph, point (a)

Approved trader exempted (name, company, address):

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.....

Registration number issued by the competent inspection department or body:

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Competent department or body (name, address):

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Date of issue of certificate:

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Period of validity of certificate:

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Signature and/or official stamp of the competent department or body:

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ANNEX III

**Certificate of conformity referred to in Article 7(1) and Article 10(2) and (3) for the products
required to conform to the European Union marketing standards**

1. Trader		Certificate of conformity with the European Union marketing standards applicable to fresh fruit and vegetables and bananas No (This certificate is exclusively for the use of inspection bodies)	
2. Packer identified on packaging (if other than trader)		3. Inspection body	
		4. Place of inspection/country of origin ⁽¹⁾	5. Region or country of destination
6. Identifier of means of transport		7. <input type="checkbox"/> internal <input type="checkbox"/> import <input type="checkbox"/> export (For bananas, it refers to checks at destination where appropriate)	
8. Packages (number and type) - -	9. Type of product (variety if the standard specifies)	10. Quality class	11. Total net weight in kg
12. The consignment referred to above conforms, at the issue time, with the European Union marketing standards in force. Custom office foreseen Place and date of issue..... Valid until (date): Signatory (name in block letters): Signature Seal of the competent authority.....			
13. Observations			
(1) Where the goods are re-exported, indicate the origin in box 9.			

ANNEX IV

Third countries where the conformity checks have been approved in accordance with Article 9 of Delegated Regulation (EU) 2023/2429 and the products concerned referred to in Article 8 of this Regulation

Country	Products
Switzerland	Fresh fruit and vegetables
Morocco	Fresh fruit and vegetables
South Africa	Fresh fruit and vegetables
Israel ⁽¹⁾	Fresh fruit and vegetables
India	Fresh fruit and vegetables
New Zealand	Apples, pears and kiwi fruit
Senegal	Fresh fruit and vegetables
Kenya	Fresh fruit and vegetables
Türkiye	Fresh fruit and vegetables
United Kingdom: — Great Britain — Northern Ireland ⁽²⁾	Fresh fruit and vegetables

⁽¹⁾ The Commission's approval is given to fruit and vegetables originating within the State of Israel, excluding the territories under Israeli administration since June 1967, namely the Golan Heights, the Gaza Strip, East Jerusalem and the rest of the West Bank.

⁽²⁾ In accordance with Article 6(3) and Article 7(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and Article 5(4) and Article 13(1) of the Protocol on Ireland/Northern Ireland to that Agreement in conjunction with Annex 2 to that Protocol, for the purposes of this Regulation references to Member States include the United Kingdom in respect of Northern Ireland. However, in accordance with Article 7(3) of that Protocol, in respect of the recognition in one Member State of technical regulations, assessments, registrations, certificates, approvals and authorisations issued or carried out by the authorities of another Member State, or by a body established in another Member State, references to Member States in provisions of Union law made applicable by that Protocol are not to be read as including the United Kingdom in respect of Northern Ireland as regards technical regulations, assessments, registrations, certificates, approvals and authorisations issued or carried out by the authorities of the United Kingdom or by bodies established in the United Kingdom.

ANNEX V

Methods of inspection referred to in Article 10(1)

The following methods of inspection are based on the provisions of the guide for the implementation of quality control of fresh fruit and vegetables adopted by the OECD Scheme for the Application of International Standards for Fruit and Vegetables.

1. DEFINITIONS**1.1. Package**

Individually packaged part of a lot, including contents. The packaging is conceived so as to facilitate handling and transport of a number of sales packages or of products loose or arranged, in order to prevent damage by physical handling and transport. The package may constitute a sales package. Road, rail, ship and air containers are not considered as packages.

1.2. Sales package

Individually packaged part of a lot, including contents. The packaging of sales packages is conceived so as to constitute a sales unit to the final user or consumer at the point of purchase.

1.3. Pre-packages

Pre-packages are sales packages such as the packaging enclosing the foodstuff completely or only partially, but in such a way that the contents cannot be altered without opening or changing the packaging. Protective films covering single produce are not considered as a pre-package.

1.4. Consignment

Quantity of produce to be sold by a given trader found at the time of inspection and defined by a document. A consignment may consist of one or several types of produce; it may contain one or several lots of fresh, dry or dried fruit and vegetables.

1.5. Lot

Quantity of produce which, at the time of inspection at one place, has similar characteristics with regard to:

- packer and/or dispatcher,
- country of origin,
- nature of produce,
- class of produce,
- size (if the produce is graded according to size),
- variety or commercial type (according to the relevant provisions of the standard),
- type of packaging and presentation.

However, if during the conformity check of consignments as defined in point 1.4 it is difficult to distinguish between different lots and/or presentation of individual lots is not possible, all lots of a specific consignment may be treated as one lot if they are similar in regard to type of produce, dispatcher, country of origin, class and variety or commercial type, if this is provided for in the relevant marketing standard.

1.6. Sampling

Collective samples taken temporarily from a lot during conformity check.

1.7. Primary sample

Package taken at random from the lot, in case of packed produce or, in case of bulk produce (direct loading into a transport vehicle or compartment thereof), a quantity taken at random from a point in the lot.

1.8. Bulk sample

Several primary samples supposed to be representative for the lot so that the total quantity is sufficient to allow the assessment of the lot with regard to all criteria.

1.9. Secondary sample

An equal quantity of produce taken at random from the primary sample.

In the case of packed nuts, the secondary sample shall weigh between 300 g and 1 kg. If the primary sample is made up of packages containing sales packages, the secondary sample shall be one or more sales packages that in aggregate are at least 300 g.

In the case of other packed produce, the secondary sample shall comprise of 30 units, in case the net weight of the package is 25 kg or less and the package does not contain any sales packages. In certain cases this means that the whole content of the package has to be checked, if the primary sample contains not more than 30 units.

1.10. Composite sample (dry and dried produce only)

A composite sample is a mix, weighing at least 3 kg, of all the secondary samples taken from the bulk sample. Produce in the composite sample shall be evenly mixed.

1.11. Reduced sample

Quantity of produce taken at random from the bulk or composite sample having a size which is restricted to the minimum quantity necessary but sufficient to allow the assessment of certain individual criteria.

If the inspection method would destroy the produce, the size of the reduced sample shall not exceed 10 % of the bulk sample or, in the case of nuts in shell, 100 nuts taken from the composite sample. In the case of small dry or dried products (i.e. 100 g include more than 100 units) the reduced sample shall not exceed 300 g.

For the assessment of criteria on the degree of the development and/or ripeness, the constitution of the sampling shall be done according to the objective methods described in the Guidance on Objective Tests to Determine Quality of Fruit and Vegetables and Dry and Dried Produce.

Several reduced samples may be taken from a bulk or composite sample in order to check the conformity of the lot against different criteria.

2. IMPLEMENTATION OF CONFORMITY CHECK**2.1. General remark**

A conformity check shall be made by assessing samples taken at random from different points in the lot to be controlled. It is based on the principle of presumption that the quality of the samples is representative of the quality of the lot.

2.2. Place of control

A conformity check may be carried out during packing operation, at the point of dispatch, during transport, at the point of reception, at whole sale and retail level.

In cases where the inspection body does not carry out the conformity check in their own premises, the holder shall provide facilities enabling the conduct of a conformity check.

2.3. Identification of lots and/or getting a general impression of the consignment

The identification of lots shall be carried out on the basis of their marking or other criteria, such as the indications laid down in Directive 2011/91/EU of the European Parliament and of the Council ⁽¹⁾. In the case of consignments which are made up of several lots it is necessary for the inspector to get a general impression of the consignment with the aid of accompanying documents or declarations concerning the consignments. The inspector shall then determine how far the lots presented comply with the information in these documents.

⁽¹⁾ Directive 2011/91/EU of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs (OJ L 334, 16.12.2011, p. 1).

If the produce is to be or has been loaded onto a means of transport, the registration number of the latter shall be used for identification of the consignment.

2.4. **Presentation of produce**

The inspector shall decide which packages are to be checked. The presentation shall be made by the operator and shall include the presentation of the bulk sample as well as the supply of all information necessary for the identification of the consignment or lot.

If reduced or secondary samples are required, these shall be identified by the inspector from the bulk sample.

2.5. **Physical check**

— Assessment of packaging and presentation:

The packaging, including the material used within the package, shall be tested for suitability and cleanness according to the provisions of the relevant marketing standard. This shall be done on the basis of primary samples, in case of packed produce and in all other cases on the basis of the transport vehicle. If only certain types of packaging or presentation are permitted, the inspector shall check whether these are being used.

— Verification of marking:

The inspector shall check whether the produce is marked according to the relevant marketing standard. This shall include a check on the accuracy of marking and/or the extent of any amendments required.

In case of packed produce, this check shall be carried out on the basis of the primary samples, in all other cases on the basis of the documents attached to the pallet or the transport vehicle.

Fruit and vegetables individually wrapped in plastic shall not be considered as pre-packed foodstuff within the meaning of Regulation (EU) No 1169/2011 of the European Parliament and of the Council ⁽²⁾ and shall not necessarily need to be marked in accordance with the marketing standards. In such cases, the plastic wrapping may be considered as a simple protection for fragile products.

— Verification of conformity of the produce:

The inspector shall determine the size of the bulk sample in such way as to be able to assess the lot. The inspector selects at random the packages to be inspected or in the case of bulk produce the points of the lot from which individual samples shall be taken.

Care shall be taken to ensure that the removal of samples does not adversely affect the quality of the produce.

Damaged packages shall not be used as part of the bulk sample. They shall be set aside and may, if necessary, be subject to a separate examination and report.

The bulk sample shall comprise the following minimum quantities whenever a lot is declared unsatisfactory or the risk of a produce not conforming to the marketing standard has to be examined:

Packed produce	
Number of packages in the lot	Number of packages to be taken (primary samples)
Up to 100	5
From 101 to 300	7

⁽²⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

From 301 to 500	9
From 501 to 1 000	10
More than 1 000	15 (minimum)

Produce in bulk (direct loading into a transport vehicle or compartment thereof)	
Quantity of lot in kg or number of bundles in the lot	Quantity of primary samples in kg or number of bundles
Up to 200	10
From 201 to 500	20
From 501 to 1 000	30
From 1 001 to 5 000	60
More than 5 000	100 (minimum)

In the case of bulky fruit and vegetables (over 2 kg per unit), the primary samples shall be made up of at least five units. In the case of lots comprising fewer than 5 packages or weighing less than 10 kg, the check shall cover the entire lot.

If the inspector discovers, after an inspection, that a decision cannot be reached, another physical check shall be undertaken and the overall result reported as an average of the two checks.

2.6. Control of produce

In case of packed produce, the primary samples shall be used to check the general appearance of the produce, the presentation, the cleanliness of the packages and the labelling. In all other cases, these checks shall be done on basis of the lot or transport vehicle.

The produce shall be removed entirely from its packaging for the conformity check. The inspector may only dispense with this where the sampling is based on composite samples.

The inspection of uniformity, minimum requirements, quality classes and size shall be carried out on the basis of the bulk sample, or on the basis of the composite sample taking into account the explanatory brochures published by the OECD Scheme for the Application of International Standards for Fruit and Vegetables.

When defects are detected, the inspector shall ascertain the respective percentage of the produce not in conformity with the standard by number or weight.

External defects shall be checked on the basis of the bulk or composite sample. Certain criteria on the degree of development and/or ripeness or on the presence or absence of internal defects may be checked on the basis of reduced samples. The check based on the reduced sample applies in particular to checks which destroy the trade value of the produce.

The criteria on the degree of development and/or ripeness shall be checked using the instruments and methods laid down to this end in the relevant marketing standard or in accordance with the Guidance on Objective Tests to Determine Quality of Fruit and Vegetables and Dry and Dried Produce.

2.7. Report of control results

Documents referred to in Article 7 shall be issued, where appropriate.

If defects are found leading to non-conformity, the trader or his representative shall be informed in writing about these defects and the percentage found as well as the reasons for non-conformity. If the compliance of produce with the standard is possible by a change in marking, the trader or his representative shall be informed.

If defects are found in a product, the percentage found not to be in conformity with the standard shall be indicated.

2.8. Decline in value by conformity check

After the conformity check, the bulk or composite sample is put at the disposal of the operator or his representative.

The inspection body shall not be bound to hand back the elements of the bulk or composite sample destroyed during the conformity check.
