

Commission Implementing Regulation (EU) 2017/2298 of 12 December 2017 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)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2298

of 12 December 2017

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) 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 the points of entry into the territories referred to in Annex I to Regulation (EC) No 882/2004.
- (2) Article 8 of Regulation (EC) No 669/2009 provides that the competent authority at the designated point of entry is to carry out identity and physical checks on consignments of a product listed in Annex I thereto. However, pursuant to Article 9(2) of that Regulation, the decision to list a new product in Annex I may provide under certain conditions that the competent authority of the place of destination is to carry out those checks where the highly perishable nature of the product or the specific characteristics of the packaging are such that the performance of sampling operations at the designated point of entry would inevitably result in a serious risk to food safety or in the product being damaged to an unacceptable extent. Entries in Annex I may include a range of products and the assessment as to the highly perishable nature of the products covered may evolve after listing in Annex I. In addition, the characteristics of the packaging may change for products that are already listed. It is therefore appropriate to amend Article 9(2) of Regulation (EC) No 669/2009 to provide that the derogation referred to therein may be applied in respect of products which have already been listed as well as new products to be listed in Annex I.

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- (3) Article 2 of Regulation (EC) No 669/2009 provides that the list is to be reviewed on a regular basis, and at least biannually, taking into account at least the sources of information referred to in that Article.
- (4) The occurrence and relevance of recent food incidents notified through the Rapid Alert System for Food and Feed, the findings of audits to third countries carried out by the Directorate for Health and Food Audits and Analysis of the Commission Directorate-General for Health and Food Safety, 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.
- (5) In particular, for consignments of peppers (*Capsicum* spp.) from India and Pakistan the relevant sources of information indicate the emergence of new risks requiring the introduction of an increased level of official controls. Entries concerning those consignments should therefore be included in the list.
- (6) In addition, the scope of certain entries in the list 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 entries concerning pistachios from the United States and peppers (*Capsicum* spp.) from Thailand and Vietnam to include respectively roasted pistachios and frozen peppers.
- (7) Furthermore, the list should be amended so as to clarify that the entries concerning dried grapes, falling under Combined Nomenclature (CN) Code 0806 20, also cover dried grapes which have been cut or crushed into a paste without any further treatment⁽³⁾.
- (8) The list should also be amended by deleting 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 entries in the list concerning table grapes from Egypt and aubergines from Thailand should therefore be deleted.
- (9) 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.
- (10) Regulation (EC) No 669/2009 should therefore be amended accordingly.
- (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

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

- (1) In Article 9, paragraph 2 is replaced by the following:
 2. By way of derogation from Article 8(1), under exceptional circumstances, the Commission may provide in respect of a product listed in Annex I, that identity

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and physical checks on consignments of such products can be carried out by the competent authority of the place of destination as indicated in the CED, if appropriate at the premises of the feed and food business operator if the conditions laid down in paragraph 1 (b) and (c) are satisfied, provided that the following conditions are met:

- a the highly perishable nature of the product or the specific characteristics of the packaging are such that the performance of sampling operations at the DPE would inevitably result in a serious risk to food safety or in the product being damaged to an unacceptable extent;
 - b appropriate cooperation arrangements are put in place by the competent authorities at the DPE and the competent authorities performing the physical checks to ensure that:
 - (i) the consignment cannot be tampered with in any manner throughout all checks;
 - (ii) the reporting requirements laid down in Article 15 are fully met.
- (2) Annex I to Regulation (EC) No 669/2009 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2018.

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

Done at Brussels, 12 December 2017.

For the Commission

The President

Jean-Claude JUNCKER

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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 ^a	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%)
Pineapples <i>(Food — fresh or chilled)</i>	0804 30 00		Benin (BJ)	Pesticide residues ^{bc}	20
— 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	2008 11 91; 2008 11 96; 2008 11 98				
<i>(Feed and food)</i>					
Yardlong beans <i>(Vigna unguiculata</i> spp. <i>sesquipedalis</i> , <i>vigna unguiculata</i> spp. <i>unguiculata</i>)	ex 0708 20 00; ex 0710 22 00	10 10	Cambodia (KH)	Pesticide residues ^{bd}	50

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(Food — fresh, chilled or frozen vegetables)					
Chinese celery (<i>Apium graveolens</i>) (Food — fresh or chilled herb)	ex 0709 40 00	20	Cambodia (KH)	Pesticide residues ^{be}	50
Brassica oleracea (other edible Brassica, 'Chinese Broccoli') ^f (Food — fresh or chilled)	ex 0704 90 90	40	China (CN)	Pesticide residues ^b	20
Tea, whether or not flavoured (Food)	0902		China (CN)	Pesticide residues ^{bg}	10
— Sweet peppers (annual) (<i>Capsicum annuum</i>)	0709 60 10; 0710 80 51		Dominican Republic (DO)	Pesticide residues ^{bh}	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>)	ex 0708 20 00; ex 0710 22 00	10 10			
(Food — fresh, chilled or frozen)					

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Strawberries <i>(Food — fresh or chilled)</i>	0810 10 00		Egypt (EG)	Pesticide residues ^{bi}	10
— Sweet peppers (<i>Capsicum annuum</i>)	0709 60 10; 0710 80 51		Egypt (EG)	Pesticide residues ^{bi}	10
— Peppers (other than sweet) (<i>Capsicum spp.</i>)	ex 0709 60 99; 0710 80 59	20 20			
<i>(Food — fresh, chilled or frozen)</i>					
— 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; 2008 11 96; 2008 11 98				
<i>(Feed and food)</i>					
— Hazelnuts, in shell	0802 21 00		Georgia (GE)	Aflatoxins	20
— Hazelnuts, shelled	0802 22 00				

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(Food)					
Palm oil (Food)	1511 10 90; 1511 90 11; ex 1511 90 19; 1511 90 99	90	Ghana (GH)	Sudan dyes ^k	50
Peppers (other than sweet) (<i>Capsicum</i> spp.)	ex 0709 60 99; ex 0710 80 59	20 20	India (IN)	Pesticide residues ^{bl}	10
(Food — fresh, chilled or frozen)					
Dried grapes (including dried grapes cut or crushed into a paste, without any further treatment) (Food)	0806 20		Iran (IR)	Ochratoxin A	5
Peas with pods (unshelled) (Food — fresh or chilled)	ex 0708 10 00	40	Kenya (KE)	Pesticide residues ^{bm}	5
— Groundnuts (peanuts), in shell	1202 41 00		Madagascar (MG)	Aflatoxins	50
— Groundnuts (peanuts), shelled	1202 42 00				
— Peanut butter	2008 11 10				
— Groundnuts (peanuts), otherwise prepared	2008 11 91; 2008 11 96; 2008 11 98				

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	or preserved				
(Feed and food)					
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Nigeria (NG)	Salmonella ^a	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 ^b	10
— Groundnuts (peanuts), in shell	1202 41 00		Senegal (SN)	Aflatoxins	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)					
Raspberries (Food — frozen)	0811 20 31; ex 0811 20 11; ex 0811 20 19	10 10	Serbia (RS)	Norovirus	10
Watermelon (<i>Egusi</i> , <i>Citrullus</i> spp.) seeds	ex 1207 70 00; ex 1106 30 90; ex 2008 99 99	10 30 50	Sierra Leone (SL)	Aflatoxins	50

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and derived products (Food)					
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	20
— Groundnuts (peanuts), in shell	1202 41 00		Sudan (SD)	Aflatoxins	50
— Groundnuts (peanuts), shelled	1202 42 00				
— Peanut butter	2008 11 10				
— Groundnuts (peanuts), otherwise prepared or preserved	2008 11 11; 2008 11 96; 2008 11 98				
(Feed and food)					
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Sudan (SD)	Salmonella ⁿ	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 ^{bo}	10

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Yardlong beans (<i>Vigna unguiculata</i> spp. <i>sesquipedalis</i> , <i>vigna unguiculata</i> spp. <i>unguiculata</i>)	ex 0708 20 00; ex 0710 22 00	10 10	Thailand (TH)	Pesticide residues ^{bp}	20
(Food — fresh, chilled or frozen vegetables)					
Dried grapes (including dried grapes cut or crushed into a paste, without any further treatment) (Food)	0806 20		Turkey (TR)	Ochratoxin A	5
— Dried — apricots	0813 10 00		Turkey (TR)	Sulphites ^a	20
— Apricots, otherwise prepared or preserved	2008 50 61				
(Food)					
Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) (Food — fresh, chilled or dried)	0805 50 10		Turkey (TR)	Pesticide residues ^b	20
Sweet Peppers (<i>Capsicum annuum</i>) (Food — fresh, chilled or frozen)	0709 60 10; 0710 80 51		Turkey (TR)	Pesticide residues ^{br}	10

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Vine leaves (Food)	ex 2008 99 99	11; 19	Turkey (TR)	Pesticide residues ^{bs}	50
Pomegranates (Food — fresh or chilled)	ex 0810 90 75	30	Turkey (TR)	Pesticide residues ^{bt}	20
— Aubergines (<i>Solanum melongena</i>)	0709 30 00;		Uganda (UG)	Pesticide residues ^b	20
	ex 0710 80 95	72			
— Ethiopian eggplant (<i>Solanum aethiopicum</i>)	ex 0709 99 90;	80 73			
(Food — fresh, chilled or frozen vegetables)					
Sesamum seeds (Food — fresh or chilled)	1207 40 90		Uganda (UG)	Salmonella ⁿ	50
— Pistachios, in shell	0802 51 00		United States (US)	Aflatoxins	10
— Pistachios, shelled	0802 52 00				
— Pistachios, roasted	ex 2008 19 13;	20 20			
(Food)					
— Dried apricots	0813 10 00		Uzbekistan (UZ)	Sulphites ^a	50

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—	Apricots, otherwise prepared or preserved	2008 50 61				
(Food)						
—	Coriander leaves	ex 0709 99 90	72	Vietnam (VN)	Pesticide residues ^{bu}	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 (Food — fresh or chilled)	ex 0709 99 90	20	Vietnam (VN)	Pesticide residues ^{bu}	50	
Peppers (other than sweet) (<i>Capsicum</i> spp.)	ex 0709 60 99; ex 0710 80 59	20 20	Vietnam (VN)	Pesticide residues ^{bu}	50	
(Food — fresh, chilled or frozen)						
Pitahaya (dragon fruit) (Food — fresh or chilled)	ex 0810 90 20	10	Vietnam (VN)	Pesticide residues ^{bu}	10	

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a	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'.
b	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).
c	Residues of Ethephon.
d	Residues of Chlorbufam.
e	Residues of Phenthoate.
f	Species of <i>Brassica oleracea</i> L. convar. Botrytis (L) Alef var. Italica Plenck, cultivar alboglabra. Also known as 'Kai Lan', 'Gai Lan', 'Gailan', 'Kailan', 'Chinese kale', 'Jie Lan'.
g	Residues of Trifluralin.
h	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 CS ₂ , including maneb, mancozeb, metiram, propineb, thiram and ziram) and Methiocarb (sum of methiocarb and methiocarb sulfoxide and sulfone, expressed as methiocarb).
i	Residues of Hexaflumuron, Methiocarb (sum of methiocarb and methiocarb sulfoxide and sulfone, expressed as methiocarb), Phenthoate and Thiophanate-methyl.
j	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.
k	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).
l	Residues of Carbofuran.
m	Residues of Acephate and Diafenthiuron.
n	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.
o	Residues of Formetanate (sum of formetanate and its salts expressed as formetanate (hydrochloride)), Prothiofos and Triforine.
p	Residues of Acephate, Dicrotophos, Prothiofos, Quinalphos and Triforine.
q	Reference methods: EN 1988-1:1998, EN 1988-2:1998 or ISO 5522:1981.
r	Residues of Diafenthiuron, Formetanate (sum of formetanate and its salts expressed as formetanate (hydrochloride)) and Thiophanate-methyl.
s	Residues of Dithiocarbamates (dithiocarbamates expressed as CS ₂ , including maneb, mancozeb, metiram, propineb, thiram and ziram) and Metrafenone.
t	Residues of Prochloraz.
u	Residues of Dithiocarbamates (dithiocarbamates expressed as CS ₂ , including maneb, mancozeb, metiram, propineb, thiram and ziram), Phenthoate and Quinalphos.

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- (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) Harmonised System Explanatory Notes of the World Customs Organization in relation to Chapter 8 of the Nomenclature established under the International Convention on the Harmonized Commodity Description and Coding System.

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Changes and effects yet to be applied to :

- Regulation implicit repeal by [EUR 2019/1793](#) Regulation