Commission Implementing Decision of 22 December 2011 on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC (Text with EEA relevance) (2011/884/EU)

[F1 Article 1

Scope

1 The Decision shall apply to products originating in or consigned from China listed in Annex I.

2 **[**F2 Competent authorities**]** may carry out random physical checks in accordance with Annex II to this Decision on food and feed originating in or consigned from China other than those mentioned in paragraph 1 but which may consist, contain or be produced from rice, in order to ensure compliance with Articles 4(3) and 16(3) of Regulation (EC) No 1829/2003.

3 This Decision shall not apply to consignments of food and feed referred to in paragraph 1 which are destined to a private person for personal consumption and use only. In case of doubt, the burden of proof lies with the recipient of the consignment.**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

F2 Words in Art. 1(2) substituted (31.12.2020) by The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **75**; 2020 c. 1, Sch. 5 para. 1(1)

Article 2

Definitions

1 For the purposes of this Decision, the definitions laid down in Articles 2 and 3 of Regulation (EC) No 178/2002, Article 2 of 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 Article 3(b) and (c) of Commission Regulation (EC) No 669/2009[(2)] on increased controls on imports of certain feed and food of non-animal origin shall apply.

2 The following definitions shall also apply:

(a) Lot	:	a distinct and specified quantity of material.
(b) Increment sample	:	small equal quantity of product taken from each individual sampling point in the lot through the full depth of the lot (static sampling), or taken from the product stream during a stated portion of time (flowing commodities sampling).
(c) Bulk sample	:	quantity of product obtained by combining and mixing the increments taken from a specific lot.
(d) Laboratory sample	:	quantity of product taken from the bulk sample intended for laboratory inspection and testing.

(e) Analytical sample : homogenised laboratory sample, consisting either of the whole laboratory sample or a representative portion thereof.

[F1 Article 3

Prior notification

1 Feed and food business operators or their representatives shall give adequate prior notification of the estimated date and time of the physical arrival of the consignment and of the nature of the consignment to the competent authorities at the Border Inspection Post or at the Designated Point of Entry as appropriate. Operators shall also indicate the designation of the product as to whether it is food or feed.

2 For that purpose, they shall complete the relevant parts of the common entry document (CED) referred to in Annex II to Regulation (EC) No 669/2009, or the common veterinary entry document (CVED), as provided for in Article 2 of Commission Regulation (EC) No 136/2004[3], and transmit that document to the competent authority at the Border Inspection Post or at the Designated Point of Entry as appropriate, at least one working day prior to the physical arrival of the consignment.

3 Paragraphs 1 and 2 shall not apply to products referred to in Annex I which are not containing, consisting or produced from rice.**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

Article 4

Import conditions

[F1 1 Each consignment of product referred to in Article 1 shall be accompanied by an analytical report for each lot, and by a health certificate in accordance with the models set out in Annexes III and IV, completed, signed and verified by an authorised representative of the 'Entry Exit Inspection and Quarantine Bureau of the People's Republic of China' (AQSIQ). The analytical report and the health certificate **[**F3 must be drawn up in English, or in English and Welsh.**]**

2 Where a product referred to in Annex I does not contain, consist of or is not produced from rice, the analytical report and the health certificate may be replaced by a statement from the operator responsible for the consignment indicating that the food or feed does not contain, consist or is produced from rice. This statement **[**F4 must be drawn up in English, or in English and Welsh**]**.**]**

3 Sampling and analysis for the purposes of the analytical report referred to in paragraph 1 shall be performed in accordance with Annex II.

4 Each consignment shall be identified with the code appearing on the health certificate. Each individual bag, or other packaging form, of the consignment shall be identified with that code.

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

F3 Words in Art. 4(1) substituted (31.12.2020) by The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **77(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F4 Words in Art. 4(2) substituted (31.12.2020) by The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **77(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[F1 Article 5

Official controls

1 Each consignment of products referred to in Article 1 is subject to documentary checks to ensure that the import conditions provided for in Article 4 are complied with.

2 Where a consignment of products other than those described in Article 4(2) is not accompanied by a health certificate and the analytical report provided for in Article 4, the consignment shall be re-dispatched to the country of origin or destroyed.

3 Where a consignment is accompanied by the health certificate and the analytical report provided for in Article 4 the competent authority shall take a sample for analysis in accordance with Annex II for the presence of unauthorised GMOs with a frequency of 100 %. If the consignment consists of several lots, each lot shall be submitted to sampling and analysis.

4 The competent authority may authorise onward transportation of the consignment pending the results of the physical checks. In such a case the consignment shall remain under the continuous control of the competent authorities pending the results of the physical checks.

5 After completion of the checks provided for in paragraphs 1 to 4, the competent authority shall:

a complete the relevant part of Part II of the CED or, where appropriate, the CVED; and the responsible official of the competent authority shall stamp and sign the original of that document.

The CED or, where appropriate the CVED, can be completed only when the result of the analysis referred to in paragraph 3 is available;

b make and retain a copy of the signed and stamped CED or, where appropriate, CVED.

The original of the CED or, where appropriate, the CVED shall accompany the consignment on its onward transport until it reaches its destination as indicated in the CED or the CVED.

6 The release for free circulation of consignments shall only be allowed when, following sampling and analyses performed in accordance with Annex II, all lots of that consignment are considered compliant with **[**F5retained EU law**]**. This requirement also applies to consignments tested in accordance with Article 1(2).**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

F5 Words in Art. 5(6) substituted (31.12.2020) by The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **76**; 2020 c. 1, Sch. 5 para. 1(1)

[F7 Article 6

Reporting [F6]...

1 Competent authorities must prepare a report every 3 months, giving an account of all the results of all analytical tests carried out in the previous 3 months on consignments of the products referred to in Article 1.

Those reports must be submitted to the appropriate authority and the Food Safety Authority during the month following each quarter.

2 The report must include the following information—

a the number of consignments subjected to sampling for analysis;

b the results of the checks as provided for in Article 5;

c the number of consignments which have been rejected due to the absence of a health certificate or an analytical report.**]**

Textual Amendments

F6 Words in Art. 6 heading omitted (31.12.2020) by virtue of The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **78**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Art. 6 substituted (31.12.2020) by The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/664), regs. 1, **79**; 2020 c. 1, Sch. 5 para. 1(1)

Article 7

Splitting of a consignment

Consignments shall not be split until all official controls have been completed by the competent authorities.

In the case of subsequent splitting following official control, an authenticated copy of the health certificate and the analytical report shall accompany each part of the split consignment.

Article 8

Costs

All costs resulting from the official controls including sampling, analysis, storage and any measures taken following non-compliance, shall be borne by the food and feed business operators.

[F1 Article 9

Transitional provisions

Until 5 August 2013, Member States shall authorise the imports of consignments of products referred to in Article 1(1) with the exception of the products of Annex I corresponding to Combined Nomenclature Codes 1905 90 60, 1905 90 90 and 2103 90 90, which have physically arrived in the Union before 4 July 2013, even if the CED has not been transmitted to the competent authority at least one working day prior to the physical arrival of the consignment as required by Article 3(2), provided that the other requirements set out in Article 3 are met.

Until 5 October 2013, Member States shall authorise the imports of consignments of products corresponding in Annex I to Combined Nomenclature Codes 1905 90 60, 1905 90 90 and 2103 90 90, which do not meet the conditions referred to in Articles 3 and 4, provided that the competent authority has conducted sampling and analysis in accordance with Article 5(3).**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

[F1 Article 10

Review of the measure

The measures provided for in this Decision shall be reviewed regularly to take into account, where appropriate, new developments as regards the presence of unauthorised GMOs in products originating in or consigned from China, or as regards scientific and technical progress in the methods for sampling and analysis provided in this Decision.**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).

Article 11

Repeal

Decision 2008/289/EC is hereby repealed.

References to the repealed Decision shall be construed as references to this Decision.

Article 12

Entry into force

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

(**1**) OJ L 165, 30.4.2004, p. 1.

(**2**) OJ L 194, 25.7.2009, p. 11.

(**3**) **[**[F1]OJ L 21, 28.1.2004, p. 11.**]**

Textual Amendments

F1 Substituted by Commission Implementing Decision of 13 June 2013 amending Implementing Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China (Text with EEA relevance) (2013/287/EU).