

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compliance with feed and food law, animal health and animal welfare rules (repealed)

TITLE VI

COMMUNITY ACTIVITIES

CHAPTER I:

COMMUNITY CONTROLS

Article 45

Community controls in Member States

1 Commission experts shall carry out general and specific audits in Member States. The Commission may appoint experts from Member States to assist its own experts. General and specific audits shall be organised in cooperation with Member States' competent authorities. Audits shall be carried out on a regular basis. Their main purpose shall be to verify that, overall, official controls take place in Member States in accordance with the multi-annual national control plans referred to in Article 41 and in compliance with Community law. For this purpose, and in order to facilitate the efficiency and effectiveness of the audits, the Commission may, in advance of carrying out such audits, request that the Member States provide, as soon as possible, up-to-date copies of national control plans.

2 Specific audits and inspections in one or more specific areas may supplement general audits. These specific audits and inspections shall in particular serve to:

- a verify the implementation of the multi-annual national control plan, feed and food law and animal health and animal welfare legislation and may include, as appropriate, on-the-spot inspections of official services and of facilities associated with the sector being audited;
- b verify the functioning and organisation of competent authorities;
- c investigate important or recurring problems in Member States;
- d investigate emergency situations, emerging problems or new developments in Member States.

3 The Commission shall report on the findings of each control carried out. Its report shall, if appropriate, contain recommendations for Member States on the improvement of compliance with feed and food law and animal health and animal welfare rules. The Commission shall make its reports publicly available. In the case of reports on controls carried out in a Member State, the Commission shall provide the relevant competent authority with a draft report for comments, take those comments into consideration in preparing the final report and publish the competent authority's comments together with the final report.

4 The Commission shall establish an annual control programme, communicate it to Member States in advance, and report on its results. The Commission may amend the programme to take account of developments in the fields of feed and food safety, animal health, animal welfare and plant health.

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- 5 Member States shall:
- a take appropriate follow-up action in the light of the recommendations resulting from Community controls;
 - b give all necessary assistance and provide all documentation and other technical support that Commission experts request to enable them to carry out controls efficiently and effectively;
 - c ensure that Commission experts have access to all premises or parts of premises and to information, including computing systems, relevant to the execution of their duties.
- 6 Detailed rules concerning Community controls in Member States may be drawn up or amended in accordance with the procedure referred to in Article 62(3).

Article 46

Community controls in third countries

1 Commission experts may carry out official controls in third countries in order to verify, on the basis of the information referred to in Article 47(1), the compliance or equivalence of third country legislation and systems with Community feed and food law and Community animal health legislation. The Commission may appoint experts from Member States to assist its own experts. Such official controls shall have particular regard to:

- a the legislation of the third country;
- b the organisation of the third country's competent authorities, their powers and independence, the supervision to which they are subject and the authority they have to enforce the applicable legislation effectively;
- c the training of staff in the performance of official controls;
- d the resources including diagnostic facilities available to competent authorities;
- e the existence and operation of documented control procedures and control systems based on priorities;
- f where applicable, the situation regarding animal health, zoonoses and plant health, and procedures for notifying the Commission and relevant international bodies of outbreaks of animal and plant diseases;
- g the extent and operation of official controls on imports of animals, plants and their products;
- h the assurances which the third country can give regarding compliance with, or equivalence to, Community requirements.

2 In order to facilitate the efficiency and effectiveness of the controls in a third country, the Commission may, in advance of carrying out such controls, request that the third country concerned provide the information referred to in Article 47(1) and, where appropriate, the written records on the implementation of such controls.

3 The frequency of Community controls in third countries shall be determined on the basis of:

- a a risk assessment of the products exported to the Community;
- b the provisions of Community legislation;
- c the volume and nature of imports from the country concerned;
- d the results of controls that the Commission services or other inspection bodies have already carried out;
- e the results of import controls and of any other controls that competent authorities of Member States have carried out;

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- f information received from the European Food Safety Authority or similar bodies;
- g information received from internationally recognised bodies such as the World Health Organisation (WHO), the Codex Alimentarius Commission and the World Organisation for Animal Health (OIE), or from other sources;
- h evidence of emerging disease situations or other circumstances that might result in live animals, live plants or feed or food imported from a third country presenting health risks;
- i the need to investigate or respond to emergency situations in individual third countries.

The criteria for determining risk for the purpose of the risk assessment referred to in point (a) shall be decided in accordance with the procedure referred to in Article 62(3).

4 The procedure and detailed rules for controls in third countries may be determined or amended in accordance with the procedure referred to in Article 62(3).

They shall include, in particular, procedures for and detailed rules on:

- a controls in third countries in the context of a bilateral agreement;
- b controls in other third countries.

According to the same procedure, charges for the abovementioned controls may be established on a reciprocal basis.

5 If, during a Community control, a serious risk to human or animal health is identified, the Commission shall immediately take any necessary emergency measures in accordance with Article 53 of Regulation (EC) No 178/2002 or safeguard provisions in other relevant Community legislation.

6 The Commission shall report on the findings of each Community control carried out. Its report shall, if appropriate, contain recommendations. The Commission shall make its reports publicly available.

7 The Commission shall communicate its programme of controls in third countries to Member States in advance and report on the results. It may amend the programme to take account of developments in the fields of feed and food safety, animal health and plant health.

CHAPTER II:

IMPORT CONDITIONS

Article 47

General import conditions

1 The Commission shall be responsible for requesting third countries intending to export goods to the Community to provide the following accurate and up-to-date information on the general organisation and management of sanitary control systems:

- a any sanitary or phytosanitary regulations adopted or proposed within its territory;
- b any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures operated within its territory;
- c risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

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d where appropriate, the follow-up given to the recommendations made pursuant to controls referred to in Article 46.

2 The information referred to in paragraph 1 shall be proportionate to the nature of the goods and may take account of the specific situation and structure of the third country and the nature of the products exported to the Community. Its scope shall cover at least the goods intended to be exported to the Community.

3 The information referred to in paragraphs 1 and 2 may also relate to:

- a results of the national controls carried out on goods intended to be exported to the Community;
- b important changes which have been made to the structure and functioning of the relevant control systems, in particular to meet Community requirements or recommendations.

4 Where a third country does not provide such information or where such information is inadequate, specific import conditions may be fixed in accordance with the procedure referred to in Article 62(3) on a case by case and strictly temporary basis following consultations with the third country concerned.

5 Guidelines, specifying how the information referred to in paragraphs 1, 2 and 3 shall be drawn up and presented to the Commission, as well as transitional measures allowing time for third countries to prepare this information shall be established in accordance with the procedure referred to in Article 62(2).

Article 48

Specific import conditions

1 To the extent that the conditions and detailed procedures to be respected when importing goods from third countries or their regions are not provided for by Community law and in particular by Regulation (EC) No .../2004⁽¹⁾, they shall, if necessary, be laid down in accordance with the procedure referred to in Article 62(3).

2 The conditions and detailed procedures referred to in paragraph 1 may include:

- a the establishment of a list of third countries from which specific products may be imported into one of the territories referred to in Annex I;
- b the establishment of models of certificates accompanying consignments;
- c special import conditions, depending on the type of product or animal and the possible risks associated therewith.

3 Third countries shall appear on the lists referred to in paragraph 2(a) only if their competent authorities provide appropriate guarantees as regards compliance or equivalence with Community feed and food law and animal health rules.

4 When drawing up or updating lists, particular account shall be taken of the following criteria:

- a the third country's legislation in the sector concerned;
- b the structure and organisation of the competent authority of the third country and its control services, as well as the powers available to it/them and the guarantees that can be provided with regard to the implementation of the legislation concerned;
- c the existence of adequate official controls;
- d the regularity and rapidity of information supplied by the third country on the presence of hazards in feed and food, and in live animals;

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- e the guarantees given by a third country that:
- (i) conditions applied to the establishments from which feed and food may be imported in the Community comply with or are equivalent to the requirements in Community feed and food law;
 - (ii) a list of such establishments is drawn up and kept up-to-date;
 - (iii) the list of establishments and its updated versions are communicated to the Commission without delay;
 - (iv) the establishments are the subject of regular and effective controls by the competent authority of the third country.

5 When adopting the special import conditions referred to in paragraph 2(c), account shall be taken of information that the third countries concerned have provided and, where necessary, the results of Community controls carried out in such third countries. Special import conditions may be established for a single product or for a group of products. They may apply to a single third country, to regions of a third country, or to a group of third countries.

Article 49

Equivalence

1 Following the implementation of an equivalence agreement, or a satisfactory audit, a decision may be taken, in accordance with the procedure referred to in Article 62(3), recognising that measures that third countries or their regions apply in specific areas offer guarantees equivalent to those applied in the Community, if the third countries supply objective proof in this respect.

2 The decision referred to in paragraph 1 shall set out the conditions governing the imports from that third country or region of a third country.

The conditions may include:

- a the nature and content of the certificates that must accompany the products;
- b specific requirements applicable to importation into the Community;
- c where necessary, procedures for drawing up and amending lists of regions or establishments from which imports are permitted.

3 The decision referred to in paragraph 1 shall be repealed in accordance with the same procedure and without delay where any of the conditions for recognition of equivalence established at the time of its adoption cease to be fulfilled.

Article 50

Support for developing countries

1 In accordance with the procedure referred to in Article 62(3) the following measures may be adopted and maintained so long as they have a demonstrable effect in ensuring that developing countries are able to comply with the provisions of this Regulation:

- a a phased introduction of the requirements referred to in Article 47 and Article 48 for products exported to the Community. Progress in meeting these requirements shall be evaluated and taken into account in determining the need for specified time-limited exemptions in whole or in part from the requirements. The phased introduction shall

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- also take into account the progress in building the institutional capacity referred to in paragraph 2;
- b assistance with providing the information referred to in Article 47, if necessary by Community experts;
 - c the promotion of joint projects between developing countries and Member States;
 - d the development of guidelines to assist developing countries in organising official controls on products exported to the Community;
 - e sending Community experts to developing countries so as to assist in the organisation of official controls;
 - f the participation of control staff from developing countries in the training courses referred to in Article 51.
- 2 In the context of the Community's Development Cooperation Policy, the Commission shall promote support to developing countries with regard to feed and food safety in general and compliance with feed and food standards in particular, in order to build the institutional capacity required to meet the requirements referred to in Articles 5, 12, 47 and 48.

CHAPTER III:

TRAINING OF CONTROL STAFF

Article 51

Training of control staff

- 1 The Commission may organise training courses for the staff of the competent authorities of Member States responsible for the official controls referred to in this Regulation. These training courses shall serve to develop a harmonised approach to official controls in Member States. They may include in particular training on:
- a Community feed and food law and animal health and animal welfare rules;
 - b control methods and techniques, such as the auditing of systems that operators design to comply with feed and food law, animal health and animal welfare rules;
 - c controls to be carried out on goods imported into the Community;
 - d feed and food production, processing and marketing methods and techniques.
- 2 The training courses referred to in paragraph 1 may be open to participants from third countries, in particular developing countries.
- 3 Detailed rules for the organisation of training courses may be laid down in accordance with the procedure referred to in Article 62(3).

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Chapter IV:

Other Community activities

Article 52

Third country controls in Member States

- 1 Commission experts may, at the request of and in cooperation with the competent authorities of Member States, assist Member States during controls that third countries carry out.
- 2 In such cases, Member States in whose territory a third country is to carry out a control shall inform the Commission about the planning, scope, documentation and any other relevant information enabling the Commission to take part effectively in the control.
- 3 The Commission's assistance shall serve in particular to:
 - a clarify Community feed and food law and animal health and animal welfare rules;
 - b provide information and data available at Community level that may be useful for the control carried out by the third country;
 - c ensure uniformity with regard to controls carried out by third countries.

Article 53

Coordinated control plans

The Commission may recommend coordinated plans in accordance with the procedure referred to in Article 62(2). These plans shall be:

- (a) organised annually in accordance with a programme; and
- (b) where considered necessary, organised on an ad-hoc basis, in particular with a view to establishing the prevalence of hazards in feed, food or animals.

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- (1) OJ: Please insert reference to Regulation, as in Recital 45 (between footnotes 2 and 3).

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