

Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries

TITLE II

IMPORT OF COMPLIANT PRODUCTS

CHAPTER 1

List of recognised control bodies and control authorities for the purpose of compliance

Article 3

Compilation and content of the list of recognised control bodies and control authorities for the purpose of compliance

1 The Commission shall draw up a list of control bodies and control authorities, recognised for the purpose of compliance in accordance with Article 32(2) of Regulation (EC) No 834/2007. The list shall be published in Annex I to this Regulation. The procedures for drawing up and amending the list are defined in Articles 4, 16 and 17 of this Regulation. The list shall be made available to the public on the Internet in accordance with Articles 16(4) and 17 of this Regulation.

2 The list shall contain all the information necessary in respect of each control body or control authority to allow verifying whether products placed on the Community market have been controlled by a control body or authority recognised in accordance with Article 32(2) of Regulation (EC) No 834/2007 and in particular:

- a the name and address of the control body or control authority, including e-mail and Internet address and their code number;
- b the third countries concerned and in which the products have their origin;
- c the product categories concerned for each third country;
- d the duration of the inclusion in the list;
- e the Internet address where the list of operators subject to the control system can be found, including their certification status and the product categories concerned, as well as suspended and decertified operators and products.

Article 4

Procedure for requesting inclusion in the list of recognised control bodies and control authorities for the purpose of compliance

1 The Commission shall consider whether to recognise and include a control body or control authority in the list provided for in Article 3 upon receipt of a request for inclusion in this list from the representative of the control body or control authority concerned. Only complete requests that have been received before 31 October 2011 shall be considered, on the basis of the model of application made available by the Commission in accordance with Article 17(2),

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for the drawing up of the first list. For the following calendar years, only complete requests that have been received before 31 October of each year shall be considered.

2 The request can be introduced by control bodies and control authorities established in the Community or in a third country.

3 The request shall consist of a technical dossier, which shall comprise all the information needed for the Commission to ensure that the conditions set out in Article 32(1) and (2) of Regulation (EC) No 834/2007 are met for all organic products intended for export to the Community, namely:

- a an overview of the activities of the control body or control authority in the third country or third countries concerned, including an estimate of the number of operators involved and an indication of the expected nature and quantities of agricultural products and foodstuffs originated from the third country or third countries concerned and intended for export to the Community under the rules set out in Article 32(1) and (2) of Regulation (EC) No 834/2007;
- b a detailed description of how Titles II, III and IV of Regulation (EC) No 834/2007 as well as the provisions of Regulation (EC) No 889/2008 have been implemented in the third country or in each of the third countries concerned;
- c a copy of the assessment report as set out in the fourth subparagraph of Article 32(2) of Regulation (EC) No 834/2007:
 - (i) proving that the control body or control authority has been satisfactorily assessed on its ability to meet the conditions set out in Article 32(1) and (2) of Regulation (EC) No 834/2007;
 - (ii) giving guarantees on the elements referred to in Article 27(2), (3), (5), (6) and (12) of Regulation (EC) No 834/2007;
 - (iii) ensuring that the control body or control authority meets the control requirements and precautionary measures set out in Title IV of Regulation (EC) No 889/2008; and
 - (iv) confirming that it has effectively implemented its control activities according to these conditions and requirements;
- d proof that the control body or authority has notified its activities to the authorities of the third country concerned and its undertaking to respect the legal requirements imposed on it by the authorities of the third country concerned;
- e the website address where the list of operators subject to the control system can be found, as well as a contact point where information is readily available on their certification status, the product categories concerned, as well as suspended and decertified operators and products;
- f an undertaking to comply with the provisions of Article 5 of this Regulation;
- g any other information deemed relevant by the control body or control authority or by the Commission.

4 When examining a request for inclusion in the list of control body or control authority, and also any time after its inclusion, the Commission may request any further information, including the presentation of one or more on-the-spot examination reports established by independent experts. Furthermore, the Commission may, based on risk-assessment and in case of suspected irregularities, organise an on-the-spot examination by experts it designates.

5 The Commission shall assess whether the technical dossier referred to in paragraph 3 and the information referred to in paragraph 4 are satisfactory and may subsequently decide to

recognise and include a control body or control authority in the list. The decision shall be taken in accordance with the procedure referred to in Article 37(2) of Regulation (EC) No 834/2007.

Article 5

Management and review of the list of recognised control bodies and control authorities for the purpose of compliance

1 A control body or control authority may only be included in the list referred to in Article 3 when it fulfils the following obligations:

- a if, after the control body or control authority has been included in the list, any changes are made to the measures applied by the control body or control authority, that control body or control authority shall notify the Commission thereof; requests to amend the information in respect of a control body or control authority referred to in Article 3(2) shall also be notified to the Commission;
- b a control body or control authority included in the list shall keep available and communicate at first request all information related to its control activities in the third country; it shall give access to its offices and facilities to experts designated by the Commission;
- c by 31 March every year, the control body or control authority shall send a concise annual report to the Commission; the annual report shall update the information of the technical dossier referred to in Article 4(3); it shall describe in particular the control activities carried out by the control body or control authority in the third countries during the previous year, the results obtained, the irregularities and infringements observed and the corrective measures taken; it shall furthermore contain the most recent assessment report or update of such report, which shall contain the results of the regular on-the-spot evaluation, surveillance and multiannual reassessment as referred to in Article 32(2) of Regulation (EC) No 834/2007; the Commission may request any other information deemed necessary;
- d in the light of any information received, the Commission may at any time amend the specifications relating to the control body or control authority and may suspend the entry of that body or authority in the list referred to in Article 3; a similar decision may also be made where a control body or authority has not supplied information required or where it has not agreed to an on-the-spot examination;
- e the control body or control authority shall make available to interested parties, on an Internet website, a continuously updated list of operators and products certified as organic.

2 If a control body or a control authority does not send the annual report, referred to in paragraph 1(c), does not keep available or does not communicate all information related to its technical dossier, control system or updated list of operators and products certified as organic, or does not agree to an on-the-spot examination, after request by the Commission within a period which the Commission shall determine according to the severity of the problem and which generally may not be less than 30 days, that control body or control authority may be withdrawn from the list of control bodies and control authorities, in accordance with the procedure referred to in Article 37(2) of Regulation (EC) No 834/2007.

If a control body or a control authority fails to take appropriate and timely remedial action, the Commission shall withdraw it from the list without delay.

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CHAPTER 2

Documentary evidence required for import of compliant products

Article 6

Documentary evidence

1 The documentary evidence required for import of compliant products referred to in Article 32(1)(c) of Regulation (EC) No 834/2007, shall, in accordance with Article 17(2) of this Regulation, be established on the basis of the model set out in Annex II to this Regulation and contain at least all the elements that are part of that model.

2 The original documentary evidence shall be established by a control authority or the control body which has been recognised for issuing that documentary by a decision as referred to in Article 4.

3 The authority or body issuing the documentary evidence shall follow the rules established in accordance with Article 17(2) and in the model, notes and guidelines made available by the Commission via the computer system enabling electronic exchange of documents referred to in Article 17(1).