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## ANNEX V

### METHODS OF INSPECTION REFERRED TO IN ARTICLE 17(1)

#### 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 under [F1 Directive 2011/91/EU of the European Parliament and of the Council]. 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.

#### Textual Amendments

- F1** Words in [Annex 5 para. 2.3](#) substituted (31.12.2020) by [The Market Measures \(Marketing Standards\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/822\)](#), regs. 1, **8(46)(a)**; 2020 c. 1, Sch. 5 para. 1(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:

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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 [F<sup>2</sup>prepacked food] in the meaning of [F<sup>3</sup>Article 2(2)(e) of Regulation (EU) No 1169/2011] 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:

<b>Packed produce</b>	
<b>Number of packages in the lot</b>	<b>Number of packages to be taken (primary samples)</b>
Up to 100	5
From 101 to 300	7
From 301 to 500	9
From 501 to 1 000	10
More than 1 000	15 (minimum)

  

<b>Produce in bulk(direct loading into a transport vehicle or compartment thereof)</b>	
<b>Quantity of lot in kg or number of bundles in the lot</b>	<b>Quantity of primary samples in kg or number of bundles</b>
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)

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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.

#### Textual Amendments

- F2** Words in Annex 5 para. 2.5 substituted (31.12.2020) by [The Market Measures \(Marketing Standards\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/822\)](#), regs. 1, **8(46)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Annex 5 para. 2.5 substituted (31.12.2020) by [The Market Measures \(Marketing Standards\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/822\)](#), regs. 1, **8(46)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

## 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 mentioned in Article 14 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.

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## 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.

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**Changes and effects yet to be applied to :**

- Regulation applied (with modifications) by [S.I. 2023/959 reg. 4\(a\)Sch. 1](#)