

Commission Implementing Regulation (EU) No 884/2014 of 13 August 2014 imposing special conditions governing the import of certain feed and food from certain third countries due to contamination risk by aflatoxins and repealing Regulation (EC) No 1152/2009 (Text with EEA relevance) (repealed)

*Article 1*

**Scope**

1 Without prejudice to the provisions of Council Regulation (EEC) No 2913/92<sup>(1)</sup>, this Regulation shall apply to the import of the following feed and food falling within the CN codes and TARIC classifications set out in Annex I:

- a Brazil nuts in shell and mixtures of nuts or dried fruits containing Brazil nuts in shell (food) originating in or consigned from Brazil;
- b groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from China;
- c groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Egypt;
- d pistachios in shell and shelled, pistachios otherwise prepared or preserved (food) originating in or consigned from Iran;
- e the following food originating in or consigned from Turkey:
  - (i) dried figs;
  - (ii) hazelnuts (*Corylus* sp.) in shell and shelled;
  - (iii) pistachios in shell and shelled;
  - (iv) mixtures of nuts or dried fruits containing figs, hazelnuts or pistachios;
  - (v) fig paste, pistachio paste and hazelnut paste;
  - (vi) hazelnuts, figs and pistachios, prepared or preserved, including mixtures;
  - (vii) flour, meal and powder of hazelnuts and pistachios;
  - (viii) cut, sliced and broken hazelnuts;
  - (ix) hazelnut oil;
- f groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Ghana;
- g groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from India;
- h watermelon seeds and derived products (food) originating in or consigned from Nigeria.

2 This Regulation shall also apply to feed and food processed from the feed and food referred to in paragraph 1 and to compound feed and food, containing any of the feed or food referred to in paragraph 1 in a quantity above 20 %.

3 This Regulation shall not apply to consignments of feed and food referred to in paragraphs 1 and 2 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.

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## Article 2

### Definitions

For the purposes of this Regulation, the definitions laid down in Articles 2 and 3 of Regulation (EC) No 178/2002 and in Article 2 of Regulation (EC) No 882/2004 of the European Parliament and of the Council<sup>(2)</sup> shall apply.

In addition, the following definitions shall apply:

- (a) ‘designated points of import (DPI)’ means any point designated by the competent authority, through which the feed or food referred to in Article 1 may be imported into the Union;
- (b) ‘designated point of entry (DPE)’ means the point of entry as defined in Article 3 (b) of Regulation (EC) No 669/2009.

For the purpose of this Regulation, a consignment corresponds to a lot as referred to in Regulations (EC) No 401/2006 and (EC) No 152/2009.

## Article 3

### Import into the Union

Consignments of feed and food referred to in Article 1(1) and (2) (hereafter referred to as feed and food) may only be imported into the Union in accordance with the procedures laid down in this Regulation.

## Article 4

### Results of sampling and analysis

1 Each consignment of feed and food shall be accompanied by the results of sampling and analysis performed by the competent authorities of the country of origin, or of the country where the consignment is consigned from if that country is different from the country of origin, to ascertain compliance with Union legislation on maximum levels of aflatoxins.

2 The sampling and the analysis referred to in paragraph 1 must be performed in accordance with Regulation (EC) No 152/2009 for aflatoxins in feed and with Regulation (EC) No 401/2006 for aflatoxins in food.

## Article 5

### Health certificate

1 Each consignment shall also be accompanied by a health certificate in accordance with the model set out in Annex II.

2 The health certificate shall be completed, signed and verified by an authorised representative of the competent authority of the country of origin or the competent authority of the country where the consignment is consigned from if that country is different from the country of origin.

The competent authority of the country of origin is

- a the Ministério da Agricultura, Pecuária e Abastecimento (MAPA) for food from Brazil;
- b the State Administration for Entry-Exit inspection and Quarantine of the People's Republic of China for feed and food from China;
- c the Egyptian Ministry of Agriculture for feed and food from Egypt;
- d the Iranian Ministry of Health for food from Iran;
- e the General Directorate of Protection and Control of the Ministry of Agriculture and Rural Affairs of the Republic of Turkey for food from Turkey;
- f the Ghana Standards Authority for feed and food from Ghana;
- g the Export Inspection Council of India of the Ministry of Commerce and Industry for feed and food from India;
- h the National Agency for Food and Drug Administration and Control (Nafdac) for food from Nigeria.

3 The health certificate shall be drawn up in the official language, or in one of the official languages, of the Member State where the designated point of entry is located. However, a Member State may consent to health certificates being drawn up in another official language of the Union.

4 The health certificate shall only be valid during four months from the date of issue.

#### *Article 6*

### **Identification**

Each consignment of food and feed shall be identified with an identification code (consignment code) which corresponds to the identification code on the results of the sampling and analysis referred to in Article 4 and the health certificate referred to in Article 5. Each individual bag, or other packaging form, of the consignment shall be identified with that identification code.

#### *Article 7*

### **Prior notification of consignments**

1 Feed and food business operators or their representatives shall give prior notification of the estimated date and time of physical arrival of the feed and food to the competent authorities at the DPE and of the nature of the consignment.

2 For the purpose of prior notification, they shall complete Part I of the common entry document (CED) referred to in Article 3 (a) of Regulation (EC) No 669/2009 and transmit that document to the competent authority at the DPE, at least one working day prior to the physical arrival of the consignment.

3 For the completion of the CED in application of this Regulation, feed and food business operators shall take into account the notes for guidance laid down in Annex III.

4 In case the DPI is different from the DPE, the feed and food business operator shall notify the competent authority at the DPI at least one working day prior to the physical arrival of the consignment. The notification shall be done by sending by the feed and food business operator a copy of the CED completed as regards the documentary control by the competent authority at the DPE.

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5 CEDs shall be drawn up in the official language, or in one of the official languages, of the Member State where the DPE is located. However, a Member State may consent to CEDs being drawn up in another official language of the Union.

#### *Article 8*

### **Designated points of import (DPI)**

The competent authorities in Member States shall ensure that the DPI complies with following requirements:

- (a) the presence of trained staff to perform official controls on consignments of feed and food;
- (b) the availability of detailed instructions regarding sampling and the sending of the samples to the laboratory, in accordance with provisions in Annex I to Regulation (EC) No 152/2009 for feed and in Annex I to Regulation (EC) No 401/2006 for food;
- (c) the possibility to perform the unloading and the sampling in a sheltered place at the designated point of import; it must be possible to place the consignment of the feed and food under the official control of the competent authority from the DPI onwards in cases where, after agreement by the competent authority, the consignment has to be transported to a place in the immediate neighbourhood of the DPI in order to perform the sampling;
- (d) the availability of storage rooms, warehouses to store detained consignments of feed and food in good conditions while awaiting the results of analysis;
- (e) the availability of unloading equipment and appropriate sampling equipment;
- (f) the availability of an official laboratory for aflatoxin analysis, situated at a place to which the samples can be transported within a short period of time and which is able to perform the analysis within a due time-limit.

The Member States shall maintain and make publicly available an up-to-date list of the DPIs. The Member States shall communicate them to the Commission.

The Commission shall display the national links to those lists on the Commission's website, for information purposes.

Feed and food business operators shall ensure the unloading of the consignment of feed and food necessary for representative sampling to take place.

In the case of special transport or specific packaging forms, the operator shall make available to the official inspector the appropriate sampling equipment insofar as the sampling cannot be representatively performed with the usual sampling equipment.

#### *Article 9*

### **Official controls**

1 All official controls before the completion of the CED shall be performed within 15 working days from the moment the consignment is offered for import and physically available for sampling at the DPI.

2 Consignments of the feed and food can only enter the Union through the DPE. The competent authority at the DPE shall carry out documentary checks on each consignment of the feed and food intended for import into the Union to ascertain compliance with the requirements laid down in Articles 4 and 5.

For the purpose of this Regulation, Points of Entry can be designated which are only authorised to perform the documentary checks. In that case these DPE have not to comply with the minimum requirements as provided for in Article 4 of Regulation (EC) No 669/2009.

3 Where a consignment of feed and food is not accompanied by the results of sampling and analysis and the health certificate or where the results of sampling and analysis or the health certificate do not comply with the provisions of the Regulation, the consignment may not enter the Union for import into the Union and must be re-dispatched to the country of origin or destroyed.

4 The competent authority at the DPE shall authorise transfer of the consignment to a DPI after favourable completion of the checks referred to in paragraph 2. The original certificate, results of sampling and analysis referred to in article 4 and the CED shall accompany the consignment during transfer. The competent authority of the DPE shall immediately inform the competent authority at the DPI of the sending of the consignment and the business operator has to inform the competent authority at the DPI of the arrival of the consignment at least one working day prior to the physical arrival of the consignment. In case the business operator decides to change the DPI after the consignment has left the DPE, the documents have to be presented again to the competent authority of the DPE to agree and to perform the necessary changes on the CED and the competent authority of the DPE informs consequently the relevant DPIs of these changes.

5 The competent authority at the DPI shall carry out an identity check and a physical check by taking a sample for analysis of aflatoxin B1 for feed or aflatoxin B1 and total aflatoxin contamination for food on certain consignments at a frequency set out in Annex I to this Regulation before acceptance for release for free circulation into the Union. The sampling is carried out for feed in accordance with Annex I to Regulation (EC) No 152/2009 and for food in accordance with Annex I to Regulation (EC) No 401/2006.

6 After completion of the checks, the competent authorities shall, for checks carried out by them,

- a complete the relevant entries of Part II of the CED;
- b join the results of sampling and analysis carried out;
- c provide and fill the CED reference number on the CED;
- d stamp and sign the original of the CED;
- e make and retain a copy of the signed and stamped CED.

For the completion of the CED in application of this Regulation, the competent authority shall take into account the notes for guidance laid down in Annex III.

7 The original of the health certificate referred to in Article 5, the results of sampling and analysis referred to in Article 4 and the CED shall accompany the consignment during its transfer until it is released for free circulation.

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#### *Article 10*

### **Splitting of a consignment**

1 Consignments shall not be split until all official controls have been completed, and the CED has been fully completed by the competent authorities as provided for in Article 9.

2 In the case of subsequent splitting of the consignment, an authenticated copy of the CED shall accompany each part of the consignment during its transport until it is released for free circulation.

#### *Article 11*

### **Release for free circulation**

The release for free circulation of consignments shall be subject to the presentation (physically or electronically) by the feed and food business operator or their representative to the custom authorities of a CED duly completed by the competent authority once all official controls have been carried out. The custom authorities shall only release the consignment for free circulation if a favourable decision by the competent authority is indicated in box II.14 and signed in box II.21 of the CED.

#### *Article 12*

### **Non-compliance**

If the official controls establish non-compliance with the relevant Union legislation, the competent authority shall complete Part III of the CED and action shall be taken pursuant to Articles 19, 20 and 21 of Regulation (EC) No 882/2004.

#### *Article 13*

### **Reports**

Member States shall submit to the Commission every three months a report of all analytical results of official controls on consignments of feed and food pursuant to this Regulation. That report shall be submitted during the month following each quarter.

The report shall include the following information:

- the number of consignments imported,
- the number of consignments subjected to sampling for analysis,
- the results of the checks as provided for in Article 9(5).

#### *Article 14*

##### **Costs**

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

#### *Article 15*

##### **Repeal**

Regulation (EC) No 1152/2009 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation and should be read with the correlation table in Annex IV.

#### *Article 16*

##### **Entry into force**

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

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

Done at Brussels, 13 August 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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- (1) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([OJ L 302, 19.10.1992, p. 1](#)).
- (2) 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 ([OJ L 165, 30.4.2004, p. 1](#)).