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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

amending Implementing Regulation (EU) 2017/186 as regards the introduction into the Union of consignments from certain third countries, sampling procedures and reporting requirements by the Member States and amending Regulation (EC) No 669/2009

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾, and in particular Article 53(1)(b)(ii) thereof,

Having regard to 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 ⁽²⁾, and in particular Article 15(5) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2017/186⁽³⁾ lays down specific conditions applicable to the introduction into the Union of food consignments from certain third countries due to microbiological contamination. In particular, it requires that each consignment of foods listed in Annex I to that Regulation is tested for certain microbiological hazards by the exporting third country and that the competent authorities of the Member States carry out checks to verify the absence of such hazards. In addition, Implementing Regulation (EU) 2017/186 requires Member States to submit to the Commission a report of all analytical results of official controls carried out by the competent authorities on consignments covered by that Regulation.
- (2) Commission Regulation (EC) No 669/2009 ⁽⁴⁾ provides for an increased level of official controls to be carried out on imports of the feed and food of non-animal origin listed in Annex I thereto. Sesame seeds (*Sesamum seeds*) from Sudan have been

¹ OJ L 31, 1.2.2002, p. 1.

² OJ L 165, 30.4.2004, p. 1.

³ Commission Implementing Regulation (EU) 2017/186 of 2 February 2017 laying down specific conditions applicable to the introduction into the Union of consignments from certain third countries due to microbiological contamination and amending Regulation (EC) No 669/2009 (OJ L 29, 3.2.2017, p. 24).

⁴ Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC (OJ L 194, 25.7.2009, p. 11).

included in that Annex by Commission Implementing Regulation (EU) 2017/1142⁵ and are therefore subject to an increased level of official controls since 1 July 2017.

- (3) Those increased controls confirmed the high frequency of non-compliance of sesame seeds from Sudan with microbiological safety, due to *Salmonella* spp. The import of those seeds constitutes therefore a serious risk to public health within the Union and it is therefore necessary to adopt Union emergency measures.
- (4) Guarantees from the competent authorities of exporting countries that those seeds have been produced in accordance with the hygiene provisions laid down in Regulation (EC) No 852/2004 of the European Parliament and of the Council ⁽⁶⁾ are necessary to protect human health in the Union. In order to ensure harmonised enforcement of import controls across the Union, all consignments of such seeds should be accompanied by a health certificate, signed by the competent authorities of exporting third countries, and by the results of analytical tests guaranteeing that they have been sampled and analysed with satisfactory results for the presence of microbiological pathogens.
- (5) For the sake of transparency and consistency of the applicable rules, all specific conditions governing the import of sesame seeds from Sudan with regard to the presence of *Salmonella* should be set out in Implementing Regulation (EU) 2017/186. Therefore the entries for these seeds should be removed from Annex I of Regulation (EC) No 669/2009
- (6) In order to ensure harmonised sampling procedures for food consignments listed in Annex I to Implementing Regulation (EU) 2017/186 both in analytical checks of such foods by the third countries prior to their export to the Union and in checks of the imports of the foods concerned into the Union at the designated points of entry (DPE), uniform sampling procedures should be laid down in accordance with the relevant standards of the ISO (International Organisation for Standardisation) and the guidelines of the Codex Alimentarius used as reference.
- (7) In accordance with Article 12 of Implementing Regulation (EU) 2017/186, Member States are to submit biannually to the Commission a report of all analytical results on consignments of foods pursuant to Article 8 of that Regulation. Article 12 also sets out the type of data to be submitted in the report. With the view of administrative simplification, the submission of the report for the consignments of foods listed in Annex I should be reduced to one time per calendar year. In addition, data on checks of consignments of foods should be provided in an aggregated manner per food and country of origin instead of each consignment.
- (8) There is quite some overlap between Annexes I and II of Implementing Regulation (EU) 2017/186. For the sake of simplifications and clarity these two Annexes should be merged. Annex II can then be used to lay down the details on the sampling procedures and analytical reference methods referred to Article 4.
- (9) Implementing Regulation (EU) 2017/186 and Regulation (EC) No 669/2009 should be amended accordingly.

⁵ Commission Implementing Regulation (EU) 2017/1142 of 27 June 2017 amending Annex I to Regulation (EC) No 669/2009 as regards the list of feed and food of non-animal origin subject to an increased level of official controls on imports (OJ L 165, 28.6.2017, p. 29).

⁶ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

- (10) It is appropriate to introduce a transitional period for the certification of Sesame seeds from Sudan to take into account the consignments of goods shipped before the date of application of this Regulation.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed.

HAS ADOPTED THIS REGULATION:

Article 1
Amendments to Implementing Regulation (EU) 2017/186

Implementing Regulation (EU) 2017/186 is amended as follows:

- (1) Article 4 is replaced by the following:

"Article 4

Results of sampling and analysis accompanying the consignment

1. Each consignment of foods shall be accompanied by the results of sampling and analysis performed by the competent authority of the third country of dispatch verifying that the hazard specified in Annex I was not detected.
2. The sampling and the analysis referred to in paragraph 1 shall be performed in accordance with the sampling procedures and the analytical reference methods referred to in Annex II "

- (2) In Article 8, paragraph 2 is replaced by the following:

"2. Identity checks and physical checks in accordance with Articles 8, 9 and 19 of Regulation (EC) No 669/2009 and physical checks in accordance with Article 4(2) of this Regulation shall be carried out on food at the frequency set out in Annex I to this Regulation.

- (3) Article 12 is replaced by the following:

"Article 12
Reports

1. Member States shall submit to the Commission a report of all analytical results on consignments of foods pursuant to Article 8.
2. The report shall cover a period of 12 months and shall be submitted annually by the end of the month following the calendar year. The report shall include the following information:
 - (a) total number of consignments of foods introduced, total net weight and country of origin of all the consignments;
 - (b) number of consignments subjected to sampling for analysis;
 - (c) results of the identity checks and physical checks referred to in Article 8(2).
3. The reporting obligations referred to in paragraph 1 shall be deemed to be satisfied where Member States have registered in Traces the common entry

documents issued by their respective competent authorities in accordance with this Regulation during the reporting period set out in paragraph 2. "

- (4) Annex I is amended in accordance with Part 1 of the Annex to this Regulation.
- (5) Annex II is amended in accordance with Part 2 of the Annex to this Regulation.
- (6) Annex III is amended by the following:

The title of Annex III is replaced by 'Health Certificate for the introduction of betel leaves from India and Sesame seeds from India and Sudan into the European Union.'

Article 2

Amendments to Commission Regulation (EC) No 669/2009

In Annex I to Regulation (EC) No 669/2009, the entry for sesame seeds from Sudan is deleted.

Article 3

Transitional provisions

Consignments of sesame seeds from Sudan without the relevant certificate may be accepted for the entry into the Union until 12 December 2019.

Article 4

Entry into force and application

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,

For the Commission
The President
Jean-Claude JUNCKER