Commission Implementing Regulation (EU) 2017/2298 of 12 December 2017 amending Regulation (EC) No 669/2009 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 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2298

of 12 December 2017

amending Regulation (EC) No 669/2009 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

(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 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[(1)], and in particular Article 15(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 669/2009[(2)] lays down rules concerning the increased level of official controls to be carried out on imports of feed and food of non-animal origin listed in Annex I thereto ('the list'), at the points of entry into the territories referred to in Annex I to Regulation (EC) No 882/2004.

(2) Article 8 of Regulation (EC) No 669/2009 provides that the competent authority at the designated point of entry is to carry out identity and physical checks on consignments of a product listed in Annex I thereto. However, pursuant to Article 9(2) of that Regulation, the decision to list a new product in Annex I may provide under certain conditions that the competent authority of the place of destination is to carry out those checks where the highly perishable nature of the product or the specific characteristics of the packaging are such that the performance of sampling operations at the designated point of entry would inevitably result in a serious risk to food safety or in the product being damaged to an unacceptable extent. Entries in Annex I may include a range of products and the assessment as to the highly perishable nature of the products covered may evolve after listing in Annex I. In addition, the characteristics of the packaging may change for products that are already listed. It is therefore appropriate to amend Article 9(2) of Regulation (EC) No 669/2009 to provide that the derogation referred to therein may be applied in respect of products which have already been listed as well as new products to be listed in Annex I.

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(3) Article 2 of Regulation (EC) No 669/2009 provides that the list is to be reviewed on a regular basis, and at least biannually, taking into account at least the sources of information referred to in that Article.

(4) The occurrence and relevance of recent food incidents notified through the Rapid Alert System for Food and Feed, the findings of audits to third countries carried out by the Directorate for Health and Food Audits and Analysis of the Commission Directorate-General for Health and Food Safety, as well as the biannual reports on consignments of feed and food of non-animal origin submitted by Member States to the Commission in accordance with Article 15 of Regulation (EC) No 669/2009 indicate that the list should be amended.

(5) In particular, for consignments of peppers (*Capsicum* spp.) from India and Pakistan the relevant sources of information indicate the emergence of new risks requiring the introduction of an increased level of official controls. Entries concerning those consignments should therefore be included in the list.

(6) In addition, the scope of certain entries in the list should be amended to include forms of the product other than the ones currently listed, where those other forms present the same risk. It is therefore appropriate to amend the existing entries concerning pistachios from the United States and peppers (*Capsicum* spp.) from Thailand and Vietnam to include respectively roasted pistachios and frozen peppers.

(7) Furthermore, the list should be amended so as to clarify that the entries concerning dried grapes, falling under Combined Nomenclature (CN) Code 0806 20, also cover dried grapes which have been cut or crushed into a paste without any further treatment[(3)].

(8) The list should also be amended by deleting the entries for commodities for which the available information indicates an overall satisfactory degree of compliance with the relevant safety requirements provided for in Union legislation and for which an increased level of official controls is therefore no longer justified. The entries in the list concerning table grapes from Egypt and aubergines from Thailand should therefore be deleted.

(9) In order to ensure consistency and clarity, it is appropriate to replace Annex I to Regulation (EC) No 669/2009 by the text set out in the Annex to this Regulation.

(10) Regulation (EC) No 669/2009 should therefore be amended accordingly.

(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

Regulation (EC) No 669/2009 is amended as follows:

(1) In Article 9, paragraph 2 is replaced by the following:

2. By way of derogation from Article 8(1), under exceptional circumstances, the Commission may provide in respect of a product listed in Annex I, that identity

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and physical checks on consignments of such products can be carried out by the competent authority of the place of destination as indicated in the CED, if appropriate at the premises of the feed and food business operator if the conditions laid down in paragraph 1 (b) and (c) are satisfied, provided that the following conditions are met:

a the highly perishable nature of the product or the specific characteristics of the packaging are such that the performance of sampling operations at the DPE would inevitably result in a serious risk to food safety or in the product being damaged to an unacceptable extent;

b appropriate cooperation arrangements are put in place by the competent authorities at the DPE and the competent authorities performing the physical checks to ensure that:

(i) the consignment cannot be tampered with in any manner throughout all checks;

(ii) the reporting requirements laid down in Article 15 are fully met.

(2) Annex I to Regulation (EC) No 669/2009 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2018.

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

Done at Brussels, 12 December 2017.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

ANNEX I

Feed and food of non-animal origin subject to an increased level of official controls at the designated point of entry

Feed and food(intended use)	**CN code**[a]	**TARIC sub-division**	**Country of origin**	**Hazard**	**Frequency of physical and identity checks (%)**
Pineapples ***(Food — fresh or chilled)***	0804 30 00		**Benin (BJ)**	Pesticide residues[bc]	20
— Groundnuts (peanuts), in shell	1202 41 00		**Bolivia (BO)**	Aflatoxins	50
— Groundnuts (peanuts), shelled	1202 42 00				
— Peanut butter	2008 11 10				
— Groundnuts (peanuts), otherwise prepared or preserved	2008 11 91; 2008 11 96; 2008 11 98				
(Feed and food)					
Yardlong beans (*Vigna unguiculata* spp. *sesquipedalis, vigna unguiculata* spp. *unguiculata*) ***(Food — fresh, chilled***	ex 0708 20 00; ex 0710 22 00	**10** **10**	**Cambodia (KH)**	Pesticide residues[bd]	50

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or frozen vegetables)					
Chinese celery (*Apium graveolens*) ***(Food — fresh or chilled herb)***	ex 0709 40 00	**20**	**Cambodia (KH)**	Pesticide residues[be]	50
Brassica oleracea (other edible Brassica, 'Chinese Broccoli')[f] ***(Food — fresh or chilled)***	ex 0704 90 90	**40**	**China (CN)**	Pesticide residues[b]	20
Tea, whether or not flavoured ***(Food)***	0902		**China (CN)**	Pesticide residues[bg]	10
— Sweet peppers (*Capsicum annuum*)	— 0709 60 10; 0710 80 51		**Dominican Republic (DO)**	Pesticide residues[bh]	20
— Peppers (other than sweet) (*Capsicum* spp.)	ex 0709 60 99; ex 0710 80 59	**20** **20**			
— Yardlong beans (*Vigna unguiculata* spp. *sesquipedalis, vigna unguiculata* spp. *unguiculata*)	ex 0708 20 00; ex 0710 22 00	**10** **10**			
(Food — fresh, chilled or frozen)					
Strawberries	0810 10 00		**Egypt (EG)**	Pesticide residues[bi]	10