Commission Implementing Regulation (EU) No 125/2013 of 13 February 2013 amending Regulation (EC) No 1235/2008 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 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 125/2013

of 13 February 2013

amending Regulation (EC) No 1235/2008 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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91[(1)], and in particular Article 33(2) and (3), and points (c) and (d) of Article 38, thereof,

Whereas:

(1) In order to improve the supervision of third countries recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 and control authorities and control bodies recognised in accordance with Article 33(3) of that Regulation, it is appropriate to increase cooperation with those recognised third countries. Therefore, the exchange of experience through the participation of observers in on-the-spot examinations should be possible.

(2) In the light of the experience gained with the implementation of the equivalence system, it is necessary to clarify that processed agricultural products and all ingredients of such products, imported from third countries having control authorities or control bodies recognised under Article 33(3) of Regulation (EC) No 834/2007, have been submitted to a control system recognised for the purpose of equivalence in accordance with Union legislation.

(3) Experience has shown that difficulties can arise in interpreting the consequences of irregularities or infringements affecting the organic status of a product. In order to avoid further difficulties and to clarify the link between 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[(2)] and Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control[(3)], it is necessary to recall the duties of the control authorities or control bodies of Member States as

regards non-compliant products imported from third countries recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 or from third countries having control authorities or control bodies recognised in accordance with Article 33(3) of that Regulation. Furthermore, the exchange of information concerning irregularities between the Commission, Member States and the competent authority of a recognised third country or a recognised control authority or control body should be clarified.

(4) In order to improve the control of imported organic products, Member States should inform other Member States and the Commission of each import authorisation granted pursuant to Article 19 of Regulation (EC) No 1235/2008 within 15 days from the date of issuance of such authorisation.

(5) Annex III to Regulation (EC) No 1235/2008 contains a list of third countries whose system of production and control measures for organic production of agricultural products are recognised as equivalent to those laid down in Regulation (EC) No 834/2007. In the light of new information received by the Commission from third countries since the last amendment of that Annex, certain changes should be made in the list.

(6) The equivalence recognition of India applies to unprocessed plant products and processed agricultural products for use as food that have been grown in India. However, the Indian competent authority has notified the Commission of new guidelines relating to processed products that are inconsistent with the conditions under which India was recognised as equivalent country. In the light of that information, the specifications relating to India should be amended in order to delete the reference to processed products for use as food.

(7) The equivalence recognition of Japan applies to unprocessed plant products and ingredients in processed agricultural products for use as food that have been grown in Japan. Japan has submitted a request to the Commission to recognise the equivalence also for processed agricultural products for use as food prepared with ingredients imported from countries recognised as equivalent by Japan. The examination of that information and discussion with the Japanese authorities have led to the conclusion that in that country the rules governing production and controls of processed products for use as food prepared with such imported ingredients are equivalent to those laid down in Regulation (EC) No 834/2007. Consequently, the equivalence recognition of Japan should also apply to processed products for use as food prepared with ingredients imported from countries recognised as equivalent by Japan.

(8) Annex IV to Regulation (EC) No 1235/2008 sets out the list of control bodies and control authorities competent to carry out controls and issue certificates in third countries for the purpose of equivalence. In the light of new information received by the Commission from control bodies and control authorities listed in that Annex, certain changes should be made in the list.

(9) The Commission has examined requests for inclusion in the list set out in Annex IV to Regulation (EC) No 1235/2008, received by 31 October 2012. Control bodies and control authorities in respect of which the subsequent examination of all information

received led to the conclusion that they complied with the relevant requirements should be included in that list.

(10) Regulation (EC) No 1235/2008 should therefore be amended accordingly.

(11) In order to ensure a smooth transition as regards the lists of recognised third countries and recognised control bodies and control authorities, a later date of application should be set for the amendments of Annexes III and IV to Regulation (EC) No 1235/2008.

(12) The measures provided for in this Regulation are in accordance with the opinion of the regulatory Committee on organic production,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1235/2008 is amended as follows:

(1) in Article 8(3), the following second subparagraph is added:

> Experts from other third countries recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 may be invited by the Commission to attend on-the-spot-examination as observers.;

(2) in the first subparagraph of Article 13(4), the following point (c) is added:

> (c) it has verified, for control bodies recognised in accordance with Article 33(3) of Regulation (EC) No 834/2007, that the products covered by the certificate and in the case of processed agricultural products for use as food and feed, all organic ingredients of such products, have been certified by a control authority or control body of a third country recognised in accordance with Article 33(2) of that Regulation or by a control authority or control body recognised in accordance with Article 33(3) of that Regulation or produced and certified in the Union in accordance with that Regulation. At the request of the Commission or of the competent authority of a Member State, it shall make available without delay the list of all operators in the organic production chain and the competent authorities or control bodies under whose control those operators have placed their operations.;

(3) Article 15 is amended as follows:

> (a) in paragraph 2, the first subparagraph is replaced by the following:
>
> > Without prejudice to any measures or actions to be taken in accordance with Article 30 of Regulation (EC) No 834/2007, in case of suspicion of infringements and irregularities as regards compliance of imported organic products from third countries recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 or imported organic products controlled by control authorities or control bodies recognised in accordance with Article 33(3) of that Regulation with the requirements laid down in that Regulation, the importer shall take all necessary measures in accordance with Article 91(1) of Regulation (EC) No 889/2008.;
>
> (b) paragraph 3 is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 125/2013. (See end of Document for details)*

3. Without prejudice to any measures or actions to be taken in accordance with Article 30 of Regulation (EC) No 834/2007, where a control authority or control body of a Member State or a third country has a substantiated suspicion of an infringement or irregularity as regards compliance of imported organic products from third countries recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 or imported organic products controlled by control authorities or control bodies recognised in accordance with Article 33(3) of that Regulation with the requirements laid down in that Regulation, it shall take all necessary measures in accordance with Article 91(2) of Regulation (EC) No 889/2008 and shall immediately inform the control bodies, control authorities and competent authorities of the Member States concerned and of the third countries involved in the organic production of the products in question and the Commission.;

(c) the following paragraph 4 is added:

4. Where a competent authority of a third country recognised in accordance with Article 33(2) of Regulation (EC) No 834/2007 or a control authority or control body recognised in accordance with Article 33(3) of that Regulation is notified by the Commission after having received a communication from a Member State informing it of a substantiated suspicion of an infringement or irregularity as regards compliance of imported organic products with the requirements laid down in that Regulation or this Regulation, it shall investigate the origin of the suspected irregularity or infringement and shall inform the Commission and the Member State which sent the initial communication of the result of the investigation and of the action taken. That information shall be sent within 30 calendar days from the date of sending of the original notification by the Commission.

The Member State which sent the initial communication may ask the Commission to request additional information, if needed, which shall be sent to the Commission and to the Member State concerned. In any case, after receiving a reply or additional information, the Member State which sent the initial communication shall make the necessary entries and updates in the computer system referred to in Article 94(1) of Regulation (EC) No 889/2008.;

(4) in Article 19, paragraph 2 is replaced by the following:

2. Each Member State shall inform the other Member States and the Commission of each authorisation granted pursuant to this Article, including information on the production standards and control arrangements concerned, within 15 days from the date of issue.;

(5) Annex III is amended in accordance with Annex I to this Regulation;

(6) Annex IV is amended in accordance with Annex II to this Regulation.

Article 2

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 125/2013. (See end of Document for details)*

However, points (5) and (6) of Article 1 shall apply from 1 April 2013.

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

Done at Brussels, 13 February 2013.

For the Commission

The President

José Manuel BARROSO