Commission Implementing Regulation (EU) No 1267/2011 of 6 December 2011 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

COMMISSION IMPLEMENTING REGULATION (EU) No 1267/2011

of 6 December 2011

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

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(3) and Article 38(d) thereof,

Whereas:

(1) Pursuant to Article 10 of Commission Regulation (EC) No 1235/2008[(2)] the Commission is to draw up a list of control bodies and control authorities competent to carry out controls and issue certificates in third countries for the purpose of equivalence and is to publish that list in Annex IV to that Regulation.

(2) The Commission has examined the requests for inclusion in that list received by 31 October 2009 and has considered only complete requests. The control bodies and control authorities concerned were asked to provide additional information within 2 months in order to allow the Commission to verify whether or not they complied with the requirements of Article 11 of Regulation (EC) No 1235/2008. Only those control bodies and control authorities in respect of which the subsequent examination of all information received led to the conclusion that they complied with those requirements should be included in the list in Annex IV to Regulation (EC) No 1235/2008.

(3) Due to the large number of requests from control bodies and control authorities for which additional information has been asked, the assessment of the requests and the establishment of the first list took more time than foreseen. In the light of experience, Member States should be allowed to continue to grant import authorisations, but those authorisations should have a maximum duration of validity, and the Member States should be allowed a longer period during which they may continue to grant those authorisations.

(4) During the assessment of the requests, difficulties can arise in understanding the circumstances where a control body or a control authority may be withdrawn from the list pursuant to Article 12(2) of Regulation (EC) No 1235/2008. In order to avoid further

difficulties, it is necessary to clarify those circumstances. However, those clarifications should not impose any new obligation on the control bodies or control authorities.

(5) The 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 Regulation (EC) No 1235/2008 as amended by this Regulation and the other provisions in force as regards imports of organic products from third countries, it therefore appears necessary to recall the duties of the control body or control authority of Member States as regards non-compliant products imported in accordance with Article 33(3) of Regulation (EC) No 834/2007. However, that clarification should not impose any new obligations on the control body or control authority and Member States.

(6) In order to ensure the smooth transition from the system of national authorisations to the list of control bodies and control authorities competent to carry out controls and issue certificates in third countries for the purpose of equivalence, this Regulation should apply from 1 July 2012.

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

(8) 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 12, paragraph 2 is replaced by the following:

2. In accordance with the procedure referred to in Article 37(2) of Regulation (EC) No 834/2007 a control body or a control authority, or a reference to a specific product category or to a specific third country in relation to that control body or control authority, may be withdrawn from the list referred to in Article 10 of this Regulation in the following cases:

a if its annual report referred to paragraph 1(b) has not been received by the Commission by 31 March;

b if it does not notify the Commission in due time of changes to its technical dossier;

c if it does not provide information to the Commission during the investigations of an irregularity case;

d if it fails to take adequate corrective measures in response to the irregularities and infringements observed;

e if it does not agree to an on-the-spot examination required by the Commission, or if an on-the-spot examination comes up with a negative result due to systematic malfunctioning of control measures;

f in any other situation presenting the risk for the consumer to be misled about the true nature of the products certified by the control body or the control authority.

If a control body or a control authority fails to take appropriate and timely remedial action after request by the Commission within a period which the Commission shall

determine according to the severity of the problem and which generally may not be less than 30 days, the Commission shall withdraw it from the list without delay in accordance with the procedure referred to in Article 37(2) of Regulation (EC) No 834/2007. That withdrawal decision shall be published in the *Official Journal of the European Union*. The Commission shall make the amended list available as soon as possible to the public by any appropriate technical means, including publication on the Internet.;

(2) Article 15 is replaced by the following:

Article 15

Non-compliant products

1 Without prejudice to any measures or actions taken in accordance with Article 30 of Regulation (EC) No 834/2007 and/or Regulation (EC) No 889/2008, the release for free circulation in the Union of products not in conformity with the requirements of Regulation (EC) No 834/2007 shall be conditional on the removal of references to organic production from the labelling, advertising and accompanying documents.

2 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 the products imported in accordance with Article 33(3) of Regulation (EC) No 834/2007 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.

The importer and the control authority or control body which issued the certificate of inspection as referred to in Article 13 of this Regulation 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, where appropriate, the Commission. The control authority or control body may require that the product cannot be placed on the market with indications referring to the organic production method until it is satisfied, by the information received from the operator or from other sources, that the doubt has been eliminated.

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 irregularities as regards compliance of the products imported in accordance with Article 33(3) of Regulation (EC) No 834/2007 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.;

(3) Article 19 is amended as follows:

(a) in paragraph 1, the third subparagraph is replaced by the following:

Authorisations shall expire at the latest 12 months after being granted except those which have already been granted for a longer period before 1 July 2012.;

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1267/2011. (See end of Document for details)*

(b) paragraph 4 is replaced by the following:

4. Member States shall no longer grant the authorisations referred to in paragraph 1 of this Article from 1 July 2013 unless:

— the imported products in question are goods for which the organic production in the third country was controlled by a control body or a control authority not on the list set up in accordance with Article 10, or

— the imported products in question are goods for which the organic production in the third country was controlled by a control body or a control authority on the list set up in accordance with Article 10 but the goods do not belong to any of the product categories listed in Annex IV in respect of the control body or control authority for that third country.;

(c) in paragraph 5, ‘1 January 2013’ is replaced by ‘1 July 2014’;

(4) Annex IV is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 2012.

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

Done at Brussels, 6 December 2011.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1267/2011. (See end of Document for details)*

ANNEX

ANNEX IV

LIST OF CONTROL BODIES AND CONTROL AUTHORITIES FOR THE PURPOSE OF EQUIVALENCE AND RELEVANT SPECIFICATIONS REFERRED TO IN ARTICLE 10

For the purpose of this Annex, the product categories are designated by the following codes:

A : Unprocessed plant products
B : Live animals or unprocessed animal products
C : Aquaculture products
D : Processed agricultural products for use as food[(3)]
E : Processed agricultural products for use as feed[(3)]
F : Seeds and propagating material

The Internet website, in accordance with Article 10(2)(e), where the list of operators subject to the control system can be found, as well as a contact point where information is readily available on their certification status, the product categories concerned, as well as the suspended and decertified operators and products, can be found at the Internet address referred to in point 2 for each control body or control authority, unless otherwise specified.

"Organska Kontrola"

1. Address: Hamdije Čemerlića 2/10, 71000 Sarajevo, Bosnia and Herzegovina

2. Internet address: http://www.organskakontrola.ba

3. Third countries, code numbers and product categories concerned:

Third country	**Code number**	**Category of products**					
		A	**B**	**C**	**D**	**E**	**F**
BA	BA-BIO-101	x	—	—	x	—	—

4. Exceptions: in-conversion products

5. Duration of inclusion in the list: until 30 June 2015

"CCPB Srl"

1. Address: Via Jacopo Barozzi N.8, 40126 Bologna, Italy

2. Internet address: http://www.ccpb.it

3. Third countries, code numbers and product categories concerned:

Third country	**Code number**	**Category of products**					
		A	**B**	**C**	**D**	**E**	**F**
HR	HR-BIO-102	—	—	—	x	—	—