

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

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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), Article 38(d) and Article 40 thereof,

Whereas:

- (1) Articles 32 and 33 of Regulation (EC) No 834/2007 lay down general provisions for import of organic products. With a view to guarantee that these provisions will be applied in a correct and uniform way, detailed rules and procedures for the application of those provisions should be laid down.
- (2) As substantial experience has been built up since 1992 with the import of products providing equivalent guarantees, a relatively short period should be given to control bodies and control authorities to request their inclusion in the list for the purpose of equivalence in accordance with Article 33 of Regulation (EC) No 834/2007. However, as there is no experience with the direct application of Community rules on organic production and labelling of organic products outside the territory of the Community, more time should be given to control bodies and control authorities wishing to request their inclusion in the list for the purpose of compliance in accordance with Article 32 of Regulation (EC) No 834/2007. Therefore a longer period should be provided for sending in the requests and for examining them.
- (3) For products imported according to Article 32 of Regulation (EC) No 834/2007, the operators concerned should be able to provide documentary evidence. It is necessary to establish a model for this documentary evidence. Products imported according to Article 33 of Regulation (EC) No 834/2007 should be covered by a certificate of inspection. It is necessary to lay down detailed rules with regard to the issuing of this certificate. Moreover, a procedure in order to coordinate at Community level certain controls on products imported from third countries which are intended to be marketed in the Community as organic should be laid down.
- (4) Argentina, Australia, Costa Rica, India, Israel, New Zealand and Switzerland were previously listed as third countries from which imported products could be marketed

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in the Community as organic, under Commission Regulation (EC) No 345/2008 of 17 April 2008 laying down detailed rules for implementing the arrangements for imports from third countries provided for in Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽²⁾. The Commission has re-examined the situation of those countries according to the criteria set out in Regulation (EC) No 834/2007, taking into consideration the production rules applied and the experience gained with the import of organic products from these third countries as previously listed under Article 11(1) of Council Regulation (EEC) No 2092/2091. On this basis it is concluded that the conditions for inclusion of Argentina, Australia, Costa Rica, India, Israel, and New Zealand in the list of third countries for equivalency according to Article 33(1) of Regulation (EC) No 834/2007 are fulfilled.

- (5) The European Community and the Swiss Confederation have concluded an Agreement on trade in agricultural products⁽³⁾ approved by Decision 2002/309/EC of the Council and of the Commission⁽⁴⁾. Annex 9 to that Agreement covers organically produced agricultural products and foodstuffs and sets out that the Parties must take the necessary measures so that organic products complying with each other's laws and regulations can be imported and placed on the market. For the sake of clarity, Switzerland should also be listed in the list of third countries for equivalency according to Article 33(1) of Regulation (EC) No 834/2007.
- (6) Member States' authorities have acquired substantial experience and expertise in the field of granting access for organic imported goods into the territory of the Community. To establish and maintain the lists of third countries and control bodies and control authorities, this experience should be used and the Commission should be able to take account of reports from Member States and other experts. The tasks involved should be divided in a just and proportionate way.
- (7) Provision should also be made for transitional measures applicable to third country applications received by the Commission before 1 January 2009, the date from which Regulation (EC) No 834/2007 applies.
- (8) In order not to disrupt international trade, and to facilitate the transition between the rules established by Regulation (EEC) No 2092/2091 and those established by Regulation (EC) No 834/2007, it is necessary to extend the possibility of Member States to continue to grant authorisations to importers on a case by case basis for placing on the Community market of products until the measures necessary for the functioning of the new import rules have been put in place, in particular as regards the recognition of control bodies and control authorities referred to in Article 33(3) of Regulation (EC) No 834/2007. This possibility should be gradually phased out as the list of control bodies referred to in that Article is being established.
- (9) In order to improve transparency and guarantee the application of this Regulation, an electronic system for exchange of information between the Commission, the Member States, the third countries, and the control bodies and control authorities should be foreseen.

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- (10) The detailed rules laid down in this Regulation replace those laid down in Commission Regulation (EC) No 345/2008 and in Commission Regulation (EC) No 605/2008 of 20 June 2008 laying down detailed rules for implementing the provisions concerning the certificate of inspection for imports from third countries under Article 11 of Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽⁵⁾. Those Regulations should therefore be repealed and replaced by a new Regulation.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the regulatory Committee on organic production,

HAS ADOPTED THIS REGULATION:

TITLE I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

This Regulation lays down the detailed rules for the import of compliant products and the import of products providing equivalent guarantees as provided for in Articles 32 and 33 of Regulation (EC) No 834/2007.

Article 2

Definitions

For the purposes of this Regulation:

1. ‘certificate of inspection’: means the certificate of inspection referred to in Article 33(1)(d) of Regulation (EC) No 834/2007 covering one consignment;
2. ‘documentary evidence’: means the document referred to in Article 68 of Commission Regulation (EC) No 889/2008⁽⁶⁾ and in Article 6 of this Regulation, for which the model is set out in Annex II to this Regulation;
3. ‘consignment’: means a quantity of products under one or more Combined Nomenclature codes, covered by a single certificate of inspection, conveyed by the same means of transport and imported from the same third country;
4. ‘first consignee’: means the natural or legal person as defined in Article 2(d) of Regulation (EC) No 889/2008;
5. ‘^[F]verification of the consignment’ means the verification carried out by the relevant Member State's competent authority, in the framework of the official controls provided for in Regulation (EC) No 882/2004 of the European Parliament and of the Council⁽⁷⁾, of the fulfilment of the requirements of Regulation (EC) No 834/2007, of Regulation (EC) No 889/2008 and of this Regulation through systematic documentary checks, random identity checks and, as appropriate according to its risk assessment, physical

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checks, prior to the release of the consignment for free circulation into the Union in accordance with Article 13 of this Regulation;

6. ‘relevant Member State's competent authority’: means the customs authority, food safety authority or other authorities designated by the Member States pursuant to Article 27(1) of Regulation (EC) No 834/2007 responsible for the verification of the consignments and the endorsement of the certificates of inspection;]
7. ‘assessment report’: means the assessment report referred to in Articles 32(2) and 33(3) of Regulation (EC) No 834/2007 drawn up by an independent third party fulfilling the requirements of ISO Standard 17011 or by a relevant competent authority, which includes information on document reviews, including the descriptions referred to in Articles 4(3)(b) and 11(3)(b) of this Regulation, on office audits, including critical locations and on risk-oriented witness audits conducted in representative third countries^[F1];
8. ‘^{F2}aquaculture products’: means aquaculture products as defined in point 34 of Article 4(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁽⁸⁾;
9. ‘unprocessed’: means unprocessed as used in the definition of unprocessed products in point (n) of Article 2(1) of Regulation (EC) No 852/2004 of the European Parliament and of the Council⁽⁹⁾, irrespective of packaging or labelling operations;
10. ‘processed’: means processed as used in the definition of processed products in point (o) of Article 2(1) of Regulation (EC) No 852/2004, irrespective of packaging or labelling operations;
11. ‘point of entry’: means the point of release for free circulation.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2016/1842 of 14 October 2016 amending Regulation \(EC\) No 1235/2008 as regards the electronic certificate of inspection for imported organic products and certain other elements, and Regulation \(EC\) No 889/2008 as regards the requirements for preserved or processed organic products and the transmission of information \(Text with EEA relevance\).](#)
- F2** Inserted by [Commission Implementing Regulation \(EU\) 2016/1842 of 14 October 2016 amending Regulation \(EC\) No 1235/2008 as regards the electronic certificate of inspection for imported organic products and certain other elements, and Regulation \(EC\) No 889/2008 as regards the requirements for preserved or processed organic products and the transmission of information \(Text with EEA relevance\).](#)

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TITLE II

IMPORT OF COMPLIANT PRODUCTS

CHAPTER 1

List of recognised control bodies and control authorities for the purpose of compliance

Article 3

Compilation and content of the list of recognised control bodies and control authorities for the purpose of compliance

1 The Commission shall draw up a list of control bodies and control authorities, recognised for the purpose of compliance in accordance with Article 32(2) of Regulation (EC) No 834/2007. The list shall be published in Annex I to this Regulation. The procedures for drawing up and amending the list are defined in Articles 4, 16 and 17 of this Regulation. The list shall be made available to the public on the Internet in accordance with Articles 16(4) and 17 of this Regulation.

2 The list shall contain all the information necessary in respect of each control body or control authority to allow verifying whether products placed on the Community market have been controlled by a control body or authority recognised in accordance with Article 32(2) of Regulation (EC) No 834/2007 and in particular:

- a the name and address of the control body or control authority, including e-mail and Internet address and their code number;
- b the third countries concerned and in which the products have their origin;
- c the product categories concerned for each third country;
- d the duration of the inclusion in the list;
- e the Internet address where the list of operators subject to the control system can be found, including their certification status and the product categories concerned, as well as suspended and decertified operators and products.

Article 4

Procedure for requesting inclusion in the list of recognised control bodies and control authorities for the purpose of compliance

[^{F1} The Commission shall consider whether to recognise and include a control body or control authority in the list provided for in Article 3 upon receipt of a request thereto from the representative of the control body or control authority concerned on the basis of the model of application made available by the Commission in accordance with Article 17(2). Only complete requests that have been received before [^{F3}31 October 2018] shall be taken into account for the drawing up of the first list.]

2 The request can be introduced by control bodies and control authorities established in the Community or in a third country.

3 The request shall consist of a technical dossier, which shall comprise all the information needed for the Commission to ensure that the conditions set out in Article 32(1)