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

of **XXX**

laying down rules on documents and notifications required for organic and in-conversion products intended for import into the Union

(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.

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

of **XXX**

laying down rules on documents and notifications required for organic and in-conversion products intended for import into the Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007¹, and in particular Article 39(2), points (b) and (c), and Article 43(7) thereof,

Whereas:

- (1) In accordance with Article 45(1) of Regulation (EU) 2018/848, a product may be imported from a third country for the purpose of placing that product on the market within the Union as an organic product or as an in-conversion product. Therefore, it is necessary to lay down detailed rules for certain operators in the Union in respect of consignments at the entry into the Union and after the release for free circulation in the Union of a consignment or of a part of a consignment. Those operators are the importers who present the consignment for release for free circulation in the Union and the first consignees and consignees who will receive the consignment or a part of the consignment.
- (2) With a view to organising a system of official controls on consignments ensuring traceability, the importer should give prior notification of the arrival of a consignment to the competent authority and its own control authority or control body by submitting the relevant information on the certificate of inspection provided for in Commission Delegated Regulation (EU) 2021/xxx² [delegated act on the certificate of inspection to be adopted pursuant to 38(8)(a)(ii), 46(7)(b), 48(4) and 57(3) of Regulation (EU) 2018/848 (DA COI)].
- (3) In addition, it is necessary to lay down detailed rules with regard to the content of the extract of the certificate of inspection as well as with regard to the technical means by which it is to be issued.
- (4) The importer, the first consignee and the consignee should provide the certificate of inspection or the extract of the certificate of inspection upon request of the control authorities or control bodies. It is necessary to lay down additional obligations as regards the information to be included by the importer, the first consignee and the

¹ OJ L 150, 14.6.2018, p. 1.

² Commission Delegated Regulation (EU) 2021/xxxx of [date] supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (OJ L xxx, xxx, p. xxx').

consignee, respectively, in the description of the organic or in-conversion production unit referred to in Article 39(1), point (d)(i), of Regulation (EU) 2018/848.

- (5) To ensure that cases of non-compliance are followed up properly, information on any suspected or established non-compliance found during the verification carried out by the competent authority of a Member State on a consignment should be shared between the Member States and the Commission using the Organic Farming Information System.
- (6) In relation to the paper certificate of inspection and to the paper extract of certificates of inspection, endorsed on paper with a hand signature in accordance with Delegated Regulation (EU) 2021/xxx [DA COI], it is necessary to lay down transitional requirements for the use of such a certificate and extracts thereof by the first consignee and the consignee, as well as the requirement for such a certificate and extracts thereof to accompany the goods to the premises of the first consignee and of the consignee.
- (7) In the interest of clarity and legal certainty, this Regulation should apply from the date of application of Regulation (EU) 2018/848.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Organic Production Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down rules on:

- (a) the declarations and communications by importers, first consignees and consignees for the import of products from third countries for the purpose of placing those products on the market within the Union as organic products or in-conversion products; and
- (b) the notification by the competent authorities of the Member States of suspected or established non-compliance of consignments.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘importer’ means a natural or legal person established in the Union and subject to the control system referred to in Regulation (EU) 2018/848, who presents the consignment for release for free circulation in the Union either on its own, or through a representative;
- (2) ‘first consignee’ means a natural or legal person established in the Union and subject to the control system referred to in Regulation (EU) 2018/848 to whom the consignment is delivered by the importer after the release for free circulation and who receives it for further preparation and/or marketing;
- (3) ‘consignee’ means a natural or legal person established in the Union and subject to the control system referred to in Regulation (EU) 2018/848 to whom the batch

obtained from the splitting of a consignment is delivered by the importer after the release for free circulation and who receives it for further preparation and/or marketing;

- (4) ‘consignment’ means a consignment, as defined in Article 3, point (37), of Regulation (EU) 2017/625 of the European Parliament and of the Council³, of products intended to be placed on the market within the Union as organic products or in-conversion products; however, in case of organic products and in-conversion products exempted from official controls at border control posts in accordance with Commission Delegated Regulation (EU) 2021/xxx⁴ (DA SANTE), it 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 importer from the same third country.

Article 3

Prior notification of arrival

1. For each consignment, the importer shall give prior notification of the arrival of the consignment at the border control post or the point of release for free circulation by completing and submitting in the Trade Control and Expert System (TRACES) referred to in Article 2, point (36), of Commission Implementing Regulation (EU) 2019/1715⁵ the relevant part of the certificate of inspection in accordance with the model and the notes set out in the Annex to Delegated Regulation (EU) 2021/xxx [DA COI] to the following entities:
 - (a) the competent authority referred to in Article 6 of Delegated Regulation (EU) 2021/xxx[DA COI];
 - (b) the control authority or control body of the importer.
2. For each consignment subject to official controls at border control posts, paragraph 1 shall apply in addition to the requirements on prior notification to the competent authorities at the border control posts of arrival of consignments pursuant to Article 56(3), point (a), of Regulation (EU) 2017/625.

³ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

⁴ Commission Delegated Regulation (EU) 2021/XXX of [date] supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts of first arrival into the Union, the place of official controls for such products and amending Commission Delegated Regulations (EU) 2019/2123 and (EU) 2019/2124 (OJ L xxx, xxx, p. xxx).

⁵ Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, p. 37).

3. Prior notifications pursuant to paragraph 1 shall be given in accordance with the minimum time requirements laid down in Commission Implementing Regulation (EU) 2019/1013⁶.

Article 4

Certificate of inspection and extract of the certificate of inspection

1. The importer and the first consignee shall complete the certificate of inspection in TRACES as follows:
 - (a) in box 20 on special customs procedures, the importer shall complete in TRACES all the information, except the information on the verification carried out by the relevant competent authority;
 - (b) in box 21 on the first consignee, the importer shall complete in TRACES the information if the information has not been filled in by the control authority or control body in the third country before the verification of the consignment and the endorsement of the certificate of inspection by the competent authority; and
 - (c) box 23 on the declaration of the first consignee shall be completed in TRACES by the first consignee at the reception of the consignment after its release for free circulation.
2. If the decision taken on the consignment in accordance with Article 6(3) of Delegated Regulation (EU) 2021/xxx[DA COI] indicates that the consignment is to be released for free circulation, the importer shall report the number of the certificate of inspection in the customs declaration for release for free circulation as referred to in Article 158(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁷.
3. Where a consignment is split into different batches under customs supervision and before the release for free circulation in accordance with Article 6(6) of Delegated Regulation (EU) 2021/xxx [DA COI], the importer shall complete and submit an extract of the certificate of inspection through TRACES for each of the batches in accordance with the model and the notes set out in the Annex to this Regulation.

The same applies if a consignment is split into different batches in accordance with Article 7(3) of Delegated Regulation (EU) 2021/xxx [DA COI] after the verification and the endorsement of the certificate of inspection

If the decision in relation to a batch recorded in the extract of the certificate of inspection in accordance with Articles 6(6) and 7(4) of Delegated Regulation (EU) 2021/xxx[DA COI] indicates that the batch is to be released for free circulation, the number of the extract of the certificate of inspection shall be reported in the customs declaration for release for free circulation as referred to in Article 158(1) of Regulation EU) No 952/2013.

The consignee shall, at the reception of a batch, complete in TRACES box 13 of the extract of the certificate of inspection, confirming whether, at the reception of the

⁶ Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019 on prior notification on consignments of certain categories of animals and goods entering the Union (OJ L 165, 21.6.2019, p. 8).

⁷ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269 10.10.2013, p. 1).

batch, the packaging or container and, where relevant, the certificate of inspection are in accordance with point 6 of Annex III to Regulation (EU) 2018/848.

4. The extract of the certificate of inspection shall be drawn up in the official language or in one of the official languages of the Member State where the batch is to be released for free circulation. A Member State may consent to an extract of the certificates being drawn up in another official language of the Union and accompanied, if necessary, by an authenticated translation.

Article 5

Documentary accounts

Upon request by the relevant competent authority, control authority or control body, the importer, the first consignee or the consignee shall provide the certificate of inspection or, where relevant, the extract of the certificate of inspection in which they are mentioned.

Article 6

Description of the production units and activities

In the case of an importer declaring the consignment for the release for free circulation, the full description of the organic or in-conversion production unit and of the activities as referred to in Article 39(1), point (d)(i), of Regulation (EU) 2018/848 shall include:

- (a) the premises;
- (b) the activities, indicating the points of release for free circulation in the Union;
- (c) any other facilities that the importer intends to use for the storage of the imported products pending their delivery to the first consignee; and
- (d) an undertaking to ensure that any facilities that will be used for the storage of imported products are submitted to control, to be carried out either by the control authority or control body or, where these storage facilities are situated in another Member State or region, by a control authority or control body recognised for controls in that Member State or region.

In the case of the first consignee and the consignee, the description shall include the facilities used for the reception of consignments and their storage.

Article 7

Notification of suspected or established non-compliance

If during the verification of compliance of a consignment in accordance with Article 6 of Delegated Regulation (EU) 2021/xxx [DA COI] cases of suspected or established non-compliance are identified, the Member State concerned shall immediately notify the Commission and the other Member States using the Organic Farming Information System (OFIS) and the template set out in Section 4 of Annex II to Commission Implementing

Regulation (EU) 2021/279⁸. The Commission shall inform the competent authority, or where relevant, the control authority or control body of the third country concerned.

Article 8

Transitional provisions for paper certificates of inspection and extracts thereof

1. The paper certificate of inspection endorsed with a hand signature in accordance with Article 11(2) of Delegated Regulation (EU) 2021/xxx [DA COI] and the paper extract of the certificate of inspection endorsed with a hand signature in accordance with Article 11(5) of that Regulation shall accompany the goods to the premises of the first consignee or of the consignee.
2. Upon reception of the paper certificate of inspection referred to in paragraph 1, the first consignee shall verify whether the information reported in that certificate corresponds to the information completed in that certificate in TRACES.

In case the information relating to the number of packages referred to in box 13 of the certificate of inspection and the information in boxes 16 and 17 of that certificate is not completed in the paper certificate of inspection, or in case that information is different from the information completed in the certificate in TRACES, the first consignee shall consider the information completed in the certificate in TRACES.
3. After the verification referred to in paragraph 2, the first consignee shall hand sign the paper certificate of inspection in box 23 and shall send that certificate to the importer mentioned in box 12 thereof.
4. The importer shall keep the paper certificate of inspection referred in paragraph 3 at the disposal of the control authority or the control body for at least two years.
5. In case of a paper extract of the certificate of inspection as referred to in paragraph 1, the consignee shall, at the reception of the batch, hand sign that paper extract in box 13.
6. The consignee of the batch shall keep the paper extract of the certificate of inspection referred to in paragraph 5 at the disposal of the control authorities and/or control bodies for at least two years.
7. The first consignee or, where relevant, the importer may make a copy of the paper certificate of inspection referred to in paragraph 3 for the purpose of informing the control authorities and control bodies in accordance with Article 5. Any such copy shall carry the indication 'COPY' printed or stamped thereon.
8. The consignee or, where relevant, the importer may make a copy of the paper extract of the certificate of inspection referred to in paragraph 5 for the purpose of informing the control authorities and control bodies in accordance with Article 5. Any such copy shall carry the indication 'COPY' printed or stamped thereon.

⁸ Commission Implementing Regulation (EU) 2021/279 of 22 February 2021 laying down detailed rules for the implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council on controls and other measures ensuring traceability and compliance in organic production and the labelling of organic products (OJ L 62, 23.7.2021, p. 6).

Article 9

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*.

It shall apply from 1 January 2022.

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

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN