

AGRI F5 – Working document -16.11.2007

DRAFT COMMISSION REGULATION

DRAFT COMMISSION REGULATION

of [date]

**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 COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EC) No 834/2007 on organic production on organic production and labelling of organic products¹, and in particular 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 improving the transparency of the rules applicable to import of organic products, the detailed rules for the application of those provisions should be brought together in one single regulation.
- (2) Articles 32 and 33 of Regulation (EC) No 834/2007 lay down the conditions that have to be fulfilled for imported products to be placed on the Community market as organic. For the purpose of establishing the necessary lists of control bodies and third countries, detailed rules should be set out.
- (3) Products imported according to Article 33 should be covered by a certificate of inspection. With a view to improving the transparency of the rules applicable to import of organic products, the detailed rules on this certificate, which were previously set out in Regulation (EC) No 1788/2001, should be included in this regulation. These rules are necessary to determine a procedure in order to coordinate at Community level certain controls on products imported from third countries which are intended to be marketed with indications referring to the organic production method.
- (4) The list of third countries, which was previously set out in Regulation (EC) No 94/92, should be included in this regulation.
- (5) Member States' authorities have acquired substantial experience and expertise in the field of granting access for organic imported goods into the EU territory. To establish

¹ OJ L 189, 20.7.2007, p.1

and maintain the lists of third countries and control bodies, this experience should be used.

- (6) Provision should also be made for transitional measures applicable to third country applications received by the Commission before the entry into force of this Regulation for the inclusion of a third country in the list of third countries.
- (7) As a matter of transition, in order not to disrupt international trade, 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
- (8) The detailed rules laid down in this Regulation replace those laid down in [ex-Commission Regulation (EC) No 94/92 and ex-Commission Regulation (EC) No 1788/2004]. Those regulations should thus be repealed for the sake of transparency and legal clarity.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee provided for in Article 38 of Council Regulation No 834/2007.

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

1. This Regulation lays down:

(a) criteria and procedures to be followed with regard to the recognition under Article 32 and 33 of Regulation (EC) No 834/2007 of third countries, including the publication of lists of recognised third countries and control bodies;

(b) detailed rules with regard to the certificate of inspection required pursuant to Article 33(1) point (d) and (3) of Regulation (EC) No 834/2007.

2. This Regulation shall not apply to products which:

— are not intended for release for free circulation in the Community in unaltered state or after processing,

— are admitted free of import duties in accordance with Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty. However, the

Regulation shall apply to products admitted free of import duties in accordance with Articles 39 and 43 of Regulation (EEC) No 918/83.

Article 2

Definitions

For the purposes of this Regulation:

1. 'certificate of inspection': shall mean the certificate of inspection that covers a consignment and is foreseen by Article 33(1)(d) of Regulation No 834/2007 and by article 7 of this regulation;
2. 'consignment': shall mean 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 coming from the same third country;
3. 'verification of the consignment': shall mean the verification by the relevant Member States' authorities of the certificate of inspection to satisfy [Article 4(2) of 1788/2001], and, where these authorities consider appropriate, of the products in relation to the requirements of Regulation (EC) No 834/2007;
4. 'release for free circulation in the Community': shall mean the clearance given by the customs authorities to allow a consignment free movement within the Community;
5. 'relevant Member States' authorities': shall mean the customs authorities or other authorities, defined by the Member State;

TITLE II

LIST OF THIRD COUNTRIES

Article 3

The list of third countries referred to in of Article 33(2) of Regulation (EEC) No 834/2007 is set out in Annex I to this Regulation.

This list gives all the information deemed necessary in respect of each third country to permit the identification of products covered by the rules and in particular:

- (a) the product categories concerned,
- (b) the origin of the products,
- (c) a reference to the production standards applied in the third country,
- (d) the competent authority in the third country responsible for the control system, its address including e-mail and internet addresses,

- (e) the control authority or authorities in the third country and/or the control body or bodies recognized by the said competent authority to carry out controls, their addresses including e-mail and internet addresses,
- (f) the authority or authorities or the control body or bodies responsible in the third country for issuing certificates with a view to importing into the Community, their addresses including e-mail and internet addresses,
- (g) the duration of the inclusion in the list.

Article 4

Inclusion of third countries in the list

1. The Commission shall consider whether to include a third country in the list in the Annex upon receipt of a request for inclusion from the representative of the third country concerned.

2. The request for inclusion shall be completed by a technical dossier, established in one of the official Community languages and comprising all the information needed for the Commission to ensure that the conditions set out in paragraph 1 of Article 33 of Regulation 834/2007 are met for products intended for export to the Community. In particular, it shall comprise the following detailed information:

- (a) general information on the development of organic production in the third country, the products produced, the area in cultivation, the production regions, the food processing taking place;
- (b) the types and an estimate of the quantities of organic agricultural products and foodstuffs intended for export to the Community;
- (c) the production standards applied in the third country;
- (d) the control system applied in the third country including the monitoring and supervisory activities carried out by the competent authorities in the third country;
- (e) the internet address where the list of operators subject to the control system can be found;
- (f) the information the third country proposes to include in the list as referred to in Article 3.

3. When examining a request for inclusion, and also any time after its inclusion, the Commission may request any further information, including the presentation of one or more on-the-spot examination reports established by independent experts. Furthermore, the Commission may organize an on-the-spot examination by experts it designates.

Article 5

Management and review of the list of third countries

1. If, after a third country has been included in the list, any changes are made to the measures in force in the third country or their implementation, that third country shall notify the Commission thereof.
2. In the light of the information received, the Commission may at any time amend the specifications relating to the third country and may suspend or withdraw the entry of that country from the list referred to in Annex I; a similar decision may also be made where a third country has not supplied information required or where it has not agreed to an on-the-spot examination.

TITLE III

LIST OF CONTROL BODIES AND CONTROL AUTHORITIES FOR THE PURPOSE OF COMPLIANCE

Article 6

The list of control bodies and control authorities referred to in Article 32(2) of Regulation (EC) No 834/2007 is set out in Annex II to this Regulation.

This list gives all the information deemed necessary in respect of each control body or authority to permit the identification of products covered by the rules and in particular:

- the name and address of the control body or authority, including e-mail and internet address,
- the third countries concerned and in which the products have their origin,
- the product categories concerned,
- the duration of the inclusion in the list.

Article 7

Inclusion of control bodies and control authorities in the list for the purpose of compliance

1. The Commission shall consider whether to include a control body or control authority in the list in Annex II upon receipt of a request for inclusion from the representative of the control body or control authority concerned. Only complete requests that have been received within 6 months after the entering into force of this regulation shall be considered for the drawing up of the first list. For the following calendar years, only requests that have been received between 1 September and 31 October of each year shall be considered.

2. The request shall exist of a technical dossier, established in one of the official Community languages and comprising all the information needed for the Commission to ensure that the conditions set out in Article 32 (1) and (2) of Regulation (EC) No 834/2007 are met for organic products intended for export to the Community. In particular, it shall comprise the following detailed information:

- (a) the types and an estimate of the quantities of agricultural products and foodstuffs intended for export to the Community under the rules set out in the said Article 32 (1) and (2);
- (b) a copy of the assessment report as set out in the 4th subparagraph of the said Article 32 (2) proving that the control body or authority has been satisfactorily assessed on its ability to meet the conditions set out in Article 32 (1) and (2), to give guarantees on the elements referred to in article 27, paragraphs 5 and 6 of Regulation (EC) No 834/2007 and to meet the control requirements and precautionary measures set out in [Annex XX of Commission Regulation (EC) No XXXX/2007, implementing rules on controls];
- (c) proof that the control body or authority has notified its activities to the authorities of the third country concerned and that it respects the legal requirements imposed on it by the authorities of the third country concerned.

3. When examining a request for inclusion, and also any time after its inclusion, the Commission may request any further information, including the presentation of one or more on-the-spot examination reports established by independent experts. Furthermore, the Commission may organize an on-the-spot examination by experts it designates.

Article 8

Management and review of the list of control bodies and control authorities for the purpose of compliance

1. If, after a control body or control authority has been included in the list, any changes are made to the measures applied by the control body or control authority, that control body or control authority shall notify the Commission thereof.
2. By 31 March every year, the control body or control authority shall send a concise report to the Commission regarding the control activities carried out during the previous year.
3. In the light of the information received, the Commission may at any time amend the specifications relating to the control body or control authority and may suspend or withdraw the entry of that body or authority in the list referred to in Annex II; a similar decision may also be made where a control body or authority has not supplied information required or where it has not agreed to an on-the-spot examination.
4. The control body or control authority shall make available to the interested parties a continuously updated list of operators and products certified as organic.

TITLE IV

LIST OF CONTROL BODIES AND CONTROL AUTHORITIES FOR THE PURPOSE OF EQUIVALENCE

Article 9

The list of control bodies referred to in the third paragraph of Article 33 of Regulation (EC) No 834/2007 is set out in Annex III to this Regulation.

This list gives all the information deemed necessary in respect of each control body or control authority to permit the identification of products covered by the rules and in particular:

- the name and address of the control body or authority, including e-mail and internet address
- the third countries concerned in which the products have their origin,
- the product categories concerned,
- the production standards applied in the third country;
- the duration of the inclusion in the list.

Article 10

Inclusion of control bodies and control authorities in the list for the purpose of equivalence

1. The Commission shall consider whether to include a control body or control authority in the list in Annex III upon receipt of a request for inclusion from the representative of the control body or control authority concerned. Only complete requests that have been received within 6 months after the entering into force of this regulation shall be considered for the drawing up of the first list. For the following calendar years, only requests that have been received between 1 September and 31 October of each year shall be considered.

2. The request for inclusion shall exist of a technical dossier, established in one of the official Community languages and comprising all the information needed for the Commission to ensure that the conditions set out in Article 33 (3) of Regulation (EC) No 834/2007 are met for products intended for export to the Community. In particular, it shall comprise the following detailed information:

- (a) the types and, if possible, an estimate of the quantities of agricultural products and foodstuffs intended for export to the Community under the rules set out in the said Article 33 (1) and (3);
- (b) the production standards applied in the third country;
- (c) the control arrangements applied in the third country;

- (d) a copy of the assessment report as set out in the 4th subparagraph of Article 33 (3) on the ability of the control body or control authority to meet the conditions set out in Article 33 (1) and (3) of Regulation (EC) No 834/2007;
- (e) proof that the control body or control authority has notified its activities to the authorities of the third country concerned and that it respects the legal requirements imposed on it by the authorities of the third country concerned.

3. When examining a request for inclusion, and also any time after its inclusion, the Commission may request any further information, including the presentation of one or more on-the-spot examination reports established by independent expert. Furthermore, the Commission may organize an on-the-spot examination by experts it designates.

Article 11

Management and review of the list of control bodies and control authorities for the purpose of equivalence

1. If, after a control body or control authority has been included in the list in, any changes are made to the measures applied by the control body or control authority, that control body or control authority shall notify the Commission thereof.
2. By 31 March every year, the control body or control authority shall send a concise report to the Commission regarding the control activities carried out during the previous year.
3. In the light of the information received, the Commission may at any time amend the specifications relating to the control body or control authority and may suspend or withdraw the entry of that body or authority from the list; a similar decision may also be made where a control body or control authority has not supplied information required or where it has not agreed to an on-the-spot examination.
4. The control body or control authority shall make available to the interested parties a continuously updated list of operators and products certified as organic.

TITLE V

CERTIFICATE OF INSPECTION FOR IMPORT

Article 12

[Content of 1788/2001, consolidated version]

[Model of certificate in Annex IV]

[Model of the extract of the certificate in Annex V]

TITLE VI

FINAL AND TRANSITIONAL RULES

Article 13

Member States' assistance

[Description of system of co-reporting Member States' role for assessing requests of third countries and control bodies and authorities, as well as for follow-up and supervision.].

Article 14

Transitional rules on the list of third countries

Requests for inclusion from third countries submitted under Article 2 of Regulation (EC) No 94/92 before the entry into force of this Regulation shall be treated as applications under Article 4 of this Regulation.

Article 15

Transitional rules on equivalent import of products not originating in listed third countries

1. [In accordance with article 40 of Regulation (EC) No 834/2007 and] for a period ending 12 months after the publication of the first list of control bodies and control authorities referred to in article 7, the competent authority of a Member State may authorise importers in that Member State, where the importer has notified his activity in accordance with article 28 of Regulation (EC) No 834/2007, to place on the market products imported from third countries which are not included in the list referred to in article 33(3) of the aforementioned regulation, provided that the importer provides sufficient evidence showing that the conditions referred to in points (a) and (b) of article 33(1) are satisfied.

If those conditions are no longer satisfied, the Member State shall immediately withdraw the authorisation.

Authorisations shall expire at the latest 24 months after the publication of the first list of control bodies and control authorities recognised pursuant to article 8.

The imported product shall be covered by a certificate of inspection as set out in article 9 [of this regulation), issued by the authority or body which has been accepted for issuing the certificate of inspection by the competent authority of the authorising Member State. The original of the certificate must accompany the goods to the premises of the first consignee; thereafter the importer must keep the certificate at the disposal of the control body and, as appropriate the control authority, for not less than two years.

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.

3. At the request of a Member State or at the Commission's initiative, an authorisation granted pursuant to this article shall be examined by the Committee referred to in Article 37 of Regulation (EC) No 834/2007. If this examination discloses that the conditions referred to in in points (a) and (b) of article 33(1) are not satisfied, the Commission shall require the Member State which granted the authorisation to withdraw it.

4. Any authorisation to market products imported from a third country which had, prior to 31 December 2007 been granted to an importer by the Competent authority of the respective Member State under this article, shall expire on 31 December 2008 at the latest.

Article 16

Repeal

Regulations [recast 94/92 and consolidated 1788/2001] are repealed.

Article 17

Entry into force

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

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

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission

ANNEX I

LIST OF THIRD COUNTRIES AND RELEVANT SPECIFICATIONS

ARGENTINA

1. **Product categories:**
 - (a) live or unprocessed agricultural products and vegetative propagating material and seeds for cultivation with the exception of:
 - livestock and livestock products, bearing or intended to bear indications referring to conversion;
 - (b) processed agricultural products for use as food with the exception of:
 - livestock products bearing or intended to bear indications referring to conversion.
2. **Origin:** Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Argentina.
3. **Production standards:** Ley 25.127 sobre "Producción ecológica, biológica y orgánica"
4. **Competent authority:** Servicio Nacional de Sanidad y Calidad Agroalimentaria SENASA, www.senasa.gov.ar
5. **Control bodies:**
 - Food Safety SA, www.foodsafety.com.ar
 - Instituto Argentino para la Certificación y Promoción de Productos Agropecuarios Orgánicos SRL (Argencert), www.argencert.com
 - Letis SA, www.letis.com.ar
 - Organización Internacional Agropecuaria (OIA), www.oia.com.ar
6. **Certificate issuing bodies:** as at point 5.
7. **Duration of the inclusion:** 30 June 2013.

AUSTRALIA

1. **Product categories:**
 - (a) unprocessed crop products and vegetative propagating material and seeds for cultivation,

- (b) processed agricultural products for use as food composed essentially of one or more ingredients of plant origin.
2. **Origin:** products of category 1 (a) and organically grown ingredients in products of category 1 (b) that have been grown in Australia.
 3. **Production standards:** National standard for organic and bio-dynamic produce
 4. **Competent authority:** Australian Quarantine and Inspection Service AQIS, www.aqis.gov.au
 5. **Control bodies and authorities:**
 - Australian Certified Organic Pty. Ltd., www.australianorganic.com.au
 - Australian Quarantine and Inspection Service (AQIS), www.aqis.gov.au
 - Bio-dynamic Research Institute (BDRI)
 - National Association of Sustainable Agriculture, Australia (NASAA), www.nasaa.com.au
 - Organic Food Chain Pty Ltd (OFC)
 6. **Certificate issuing bodies and authorities:** as at point 5.
 7. **Duration of the inclusion:** 30 June 2013.

COSTA RICA

1. **Product categories:**
 - (a) unprocessed crop products and vegetative propagating material and seeds for cultivation;
 - (b) processed crop products for use as food.
2. **Origin:**

Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Costa Rica.
3. **Production standards:** xx
4. **Competent authority:** Servicio Fitosanitario del Estado
5. **Control bodies:**
 - BCS Oko-Garantie
 - Eco-LOGICA

6. **Certificate issuing authority:** Ministerio de Agricultura y Ganadería.
7. **Duration of the inclusion:** 30 June 2011.

INDIA

1. **Product categories:**
 - (a) unprocessed crop and vegetative propagating material and seeds for cultivation;
 - (b) processed agricultural products for use as food composed essentially of one or more ingredients of plant origin.
2. **Origin:** products of category 1(a) and organically grown ingredients in products of category 1(b) that have been grown in India.
3. **Production standards:** nn
4. **Competent authority:** Agricultural and Processed Food Export Development Authority APEDA
5. **Control bodies and authorities:**
 - APOF Organic Certification Agency (AOCA)
 - Bureau Veritas Certification India Pvt. Ltd
 - Control Union Certifications
 - Ecocert SA (India Branch Office)
 - IMO Control Private Limited
 - Indian Organic Certification Agency (Indocert)
 - Lacon Quality Certification Pvt. Ltd
 - Natural Organic Certification Association
 - OneCert Asia Agri Certification private Limited
 - SGS India Pvt. Ltd
 - Uttaranchal State Organic Certification Agency (USOCA).
6. **Certificate issuing bodies and authorities:** as at point 5.
7. **Duration of the inclusion:** 30 June 2009.

ISRAEL

1. **Product categories:**
 - (a) unprocessed crop products and vegetative propagating material and seeds for cultivation,
 - (b) processed agricultural products for use as food composed essentially of one or more ingredients of plant origin.
2. **Origin:** Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Israel or that have been imported into Israel:
 - either from the Community,
 - or from a third country in the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 33(2) of Regulation (EC) No 834/2007.
3. **Production standards:** nn
4. **Competent authority:** Plant Protection and Inspection Services (PPIS)
5. **Inspection bodies and authorities:**
 - AGRIOR Ltd.-Organic Inspection & Certification
 - IQC Institute of Quality & Control
 - Plant Protection and Inspection Services (PPIS)
 - Skal Israel Inspection & Certification
6. **Certificate issuing bodies and authorities:** as at point 5.
7. **Duration of the inclusion:** 30 June 2013.

SWITZERLAND

1. **Product categories:** live or unprocessed agricultural products and vegetative propagating material, processed agricultural products for use as food, feed and seeds for cultivation with the exception of
 - products produced during the conversion period and products containing an ingredient of agricultural origin produced during the conversion period
2. **Origin:** Products and organically produced ingredients in products that have been produced in Switzerland or that have been imported into Switzerland:
 - either from the Community,

- or from a third country for which Switzerland has recognised that the products have been produced and controlled in that third country to rules equivalent to those laid down in the Swiss legislation
3. **Production standards:** nn
 4. **Competent authority:** Federal Office for Agriculture FOAG
 5. **Control bodies:**
 - Bio Test Agro (BTA).
 - bio.inspecta AG
 - Institut für Marktökologie (IMO)
 - ProCert Safety AG
 - Schweizerische Vereinigung für Qualitäts- und Management-Systeme (SQS)
 6. **Certificate issuing bodies:** as at point 5.
 7. **Duration of the inclusion:** 30 June 2013.

NEW ZEALAND

1. **Product categories:**
 - (a) live or unprocessed agricultural products and vegetative propagating material and seeds for cultivation, with the exception of:
 - livestock and livestock products bearing or intended to bear indications referring to conversion,
 - products from aquaculture;
 - (b) processed agricultural products for use as food with the exception of:
 - livestock products bearing or intended to bear indications referring to conversion,
 - products containing products from aquaculture.
2. **Origin:**

Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in New Zealand or that have been imported into New Zealand:

 - either from the Community,

- or from a third country within the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 33(2) of Regulation (EEC) No 2092/91,
 - or from a third country whose rules of production and inspection system have been recognised as equivalent to the MAF Food Official Organic Assurance Programme on the basis of assurances and information provided by this country's competent authority in accordance with the provisions established by MAF and provided that only organically produced ingredients intended to be incorporated, up to a maximum of 5 % of products of agricultural origin, in products of category 1(b) prepared in New Zealand are imported.
3. **Production standards:** nn.
 4. **Competent authority:** New Zealand Food Safety Authority NZFSA
 5. **Control bodies:**
 - AgriQuality
 - BIO-GRO New Zealand.
 6. **Certificate issuing authority:** Ministry of Agriculture and Forestry (MAF) — New Zealand Food Safety Authority (NZFSA).
 7. **Duration of the inclusion:** 30 June 2011.

ANNEX II

**LIST OF CONTROL BODIES OR CONTROL AUTHORITIES FOR COMPLIANCE
AND RELEVANT SPECIFICATIONS**

ANNEX III

**LIST OF CONTROL BODIES OR CONTROL AUTHORITIES FOR EQUIVALENCE
AND RELEVANT SPECIFICATIONS**

ANNEX IV

MODEL OF THE CERTIFICATE

[Existing model: Annex I to regulation 1788/2001.]

ANNEX V

MODEL OF THE EXTRACT OF THE CERTIFICATE

[Existing model: Annex II to regulation 1788/2001.]